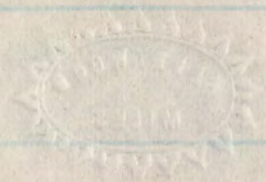


Lectures
on
Medical Jurisprudence.

Woman's Med. Coll. of Penna.
(First delivered in 1870)

Infanticide
&
Poticide.



CURIOSITIES OF THE LAW.

How Mr. Hunt, of Kent County, Delaware, Gained a Fortune by a Single Breath.

Special Correspondence of The Times.

1875
WILMINGTON, Del., May 8.—The Kent county Superior Court has been engaged all this week with a very important case. Under the laws of Delaware the property of a wife who dies without issue descends not to her husband, but to those of her own blood. Ten years ago Henry Stout, a wealthy Dover lawyer, died, leaving his property to his three children. Five years ago his only daughter married the Rev. H. R. Hall, of Lewes, and a year later she died in giving birth to her first child. The latter, it was claimed by the father, lived for a few minutes after being delivered, but this Mrs. Hall's brothers denied. If the babe breathed for a single second after birth then its mother's property descended to her husband. If it was dead when delivered, however, the mother died without issue and her property descended to her brothers. To settle the question the brothers brought suit for the property, and the case occupied the attention of the court the entire week. For the plaintiffs Senator Saulsbury and ex-Senator Comegys appeared, and the defendant was represented by ex-Judge Layton, ex-Congressman Smithers and Edward Ridgely, Esq. The first witness called was Dr. George Goodell, who attended Mrs. Hall in her fatal sickness, and delivered her of a child. He was positive the child showed no signs of respiration or muscular motion after birth. This was all the material evidence offered by the plaintiffs at this stage of the proceedings. Dr. Page, who was also present at the delivery of the child, was called by the defense. He believed the child had a distinct existence, for with his ear upon its chest he had heard its heart beat; he also saw the temporal arteries vibrate and the umbilical chord throb.

Dr. Penrose, Professor of Obstetrics in the University of Pennsylvania, being called as an expert, said that from the testimony he had heard he felt positive of the child's independent and distinct existence. Drs. Jump and Shoemaker gave similar testimony. In rebuttal, the plaintiffs called Drs. Cahall and Ezekiel and William Cooper, who testified that the child had none other than a foetal life, and that its existence was necessarily imperfect and indistinct—of no account whatever in establishing the defendant's claim to his dead wife's property.

This closed the evidence and the case was argued at great length by counsel. Yesterday morning the arguments were concluded and Chief Justice Gilpin delivered an elaborate charge to the jury, who were then given the case, and to-day they returned a verdict in favor of Hall, the defendant, basing it upon the supposition that the child drew at least one breath in this world, sufficient to possess Mr. H. with a fortune.

by an able captain, and manned by a trustworthy crew. It was no long and floating coffin like the *Atlantic*, nor patched and lengthened side-wheeler like the *Ville du Havre*, but a perfect ship, built in the best manner, of the best materials and upon the best models, and when it was launched and glided into the water a thing of beauty and a joy forever—we believe that is the correct phrase—not a twelvemonth ago, its masters thought it would live forever. And yet in darkness and distress, when almost within sight of the haven, and notwithstanding its splendid officers and well-disciplined and able-bodied crew, and the admirable precautions which the British Government has taken to warn the be-lated mariner of the sharp teeth of “the dogs of Scilly,” it has gone to pieces on the rocks, and with it over two hundred lives have gone out.

We do not know where to lay the blame for this dire disaster, nor do we care especially so to do. Every human precaution seems to have been exhausted to prevent it; the ship was staunch; the captain true and sober; the crew brave and willing, and the signals perfect. Perhaps we shall never know until the sea gives up its secrets, but the calamity seems to be one of those which, man's wits being found wanting, he vaguely ascribes to Providence. After the first horror of the event shall have passed away it may be proved that the ship, after all, was weak, her engines defective, and that her rudder refused to obey the helmsman's call; the captain may have been drunk, the crew insubordinate, or the passengers perhaps were panic stricken and the cause of their own unhappy fate. But until the facts are more clearly presented we shall believe that this last awful episode of life and death on the ocean was one of those inscrutable dispensations of Heaven with which it every now and then reminds us of its supreme sway, and spurns weak man from the ocean's bosom to the skies.

MAY 10, 1775.

The news of the engagement at Lexington and Concord, while it instantly aroused the warlike spirit of the colonies, caused the more thoughtful to await with graver concern than ever the action of the General Congress, whose session was then
In our series of Centennial obser-

WHAT CONSTITUTES A LIVE BIRTH?

BY JOHN J. REESE, M.D.,

Professor of Medical Jurisprudence and Toxicology in the University of Pennsylvania.

THE question, What constitutes a live birth? has an important twofold medico-legal application. First, in its *criminal* relation to infanticide; and secondly, in its *civil* bearing to the transmission of an estate from a deceased wife to her husband, through issue born alive.

A very different answer to the above question would be given by the non-professional and the professional person. In the estimation of the former, life in the new-born babe is evidenced only by the full and active play of all the functions and organs of its body. If it has come into the world without exhibiting voluntary movements and without visible respiration (and consequently without the traditional cry), albeit having a pulsating umbilical cord, a throbbing heart, and a distinct pulse, he would probably pronounce that the child is not really alive,—that is, that it has not a separate, independent existence apart from its mother; but that it merely carries in its body the faint remnants of its former foetal life, which are now rapidly flickering away.

retina. Now, if we have this optic nerve and the fibres that convey impression to the brain become affected, then vision is impaired. A man may have considerable atrophy of the nerve-entrance, but so long as these fibres that pass out into the retina are not interfered with he may have very good sight; in the present case we found vision very much reduced, so that it was only about $\frac{2}{200}$ on each side, but there may be decided atrophy of the nerve-entrance and yet the vision be $\frac{2}{20}$.

We call this disease *amblyopia potatorum*, from drinking, or *amblyopia ex abusu*, from abuse of any of the stimulants or narcotics. It is usually a neuritis in its first stages. The treatment is, in the first place to abandon the habit which produced the trouble, and in the second place to stimulate the nerve. You remember we advised that man to give up the use of tobacco and alcohol, and to use strychnia. The object of the strychnia was to stimulate the vessels to produce such action as will fill up these little lateral blood-vessels of the disk which have become void of blood, for it is anæmia which causes this tissue to shrivel and lose its power of conveying impressions.

Atrophy of the optic nerve may be produced by very many causes, and I do not think true atrophy of the nerve is one of the frequent results of the

On the other hand, the professional expert will tell us that *any one* satisfactory evidence of life is sufficient to establish its existence, both physiological and legal.

Let it be premised that by the term *live birth* the law understands "the complete extrusion from the mother of a living child," with or without the severance of the cord. In the case of an alleged infanticide, where proofs of the crime can be obtained solely from the inspection of the dead body, the chief evidence of previous life is derived from the *hydrostatic test* of the lungs; and this, unfortunately, is not always reliable. But in the civil case, which has reference to the transmission of an inheritance through a child born alive, the proofs of the live birth can readily be furnished by the attending physician, as also by other witnesses who may have been present at the delivery. In this latter case, no post-mortem examination is necessary, since the other proofs of life are far more satisfactory and complete.

It is to the latter aspect of the case (the civil) that I propose briefly to direct attention in the present article. By the old English law which has been in operation for centuries, and which is recognized at the present day in several of the United States, the husband of a deceased wife who dies seized of an inheritance acquires a life-interest in such inheritance, *provided* there was issue born alive. In such a case, the husband is technically said to inherit by "tenancy of the courtesy of England;" he is called "a tenant by courtesy." In the State of Delaware, which still retains the old English law on this subject, an important case lately occurred in which this principle was involved. The case (*Stout vs. Killen*) was tried in Dover, May 4, 1875, before the Superior Court of Delaware, the Hon. Judge Gilpin presiding, on a writ of ejectment brought against the defendant for the recovery of a property that had passed into his possession, as "tenant by courtesy," on the death of his wife some years previously, through an infant alleged to have been born alive, but which survived but half an hour. The plaintiffs (the wife's heirs-at-law), on the other hand, affirmed that the child was not born alive, and, consequently, that the estate did not pass to the husband. Here the whole case virtually turned upon the question of the live birth, and this, of course, involved the important query of what constitutes a live birth.

Two highly respectable physicians who attended the lady in her confinement testified that the labor was a protracted and difficult one, requiring the use of the forceps. The patient, moreover, had convulsions. The child was large and fully developed, the chest was rounded, the lips were ruddy, the general color of the body natural (not livid). The umbilical cord distinctly pulsated for about twenty minutes after complete delivery, when it was cut. The heart and temporal arteries beat distinctly all this time, *and continued so to do for five or six minutes after the severance of the cord*. There was no perceptible respiration, and of course no cry; nor were any spontaneous movements of the body observed. All the usual restorative measures were practised, but without effect; all evidences of life

ceasing about half an hour after the birth. Both the physicians testified that they regarded the child as born alive.

As one of the expert witnesses called for the defence, I had no difficulty whatever in giving an affirmative answer to the question, Was this child born alive? and in this I was ably supported by Prof. Penrose, of the University of Pennsylvania, and also by several distinguished physicians of Dover; and I based my opinion upon the following data:

It has long been a settled point in law, founded upon a recognized physiological fact, that respiration (or crying), although an important evidence of live birth, is by no means the *only* evidence. It is admitted that a child may be born and die without breathing; so that the wilful destruction of such a child is just as much murder as if it had cried lustily and moved its limbs vigorously. What the law requires in such cases is simply *proof of life*, not proof of respiration. Now, if life can be proved by other means than by respiration, the law's demands will be satisfied. I think we must admit that the pulsation of the child's heart and arteries, after its full extrusion into the world, and especially after severance of the umbilical cord, is a good evidence of life. Certainly the heart does not beat nor the pulse throb in a dead child; and there is no alternative between a dead child and a living one. Again, there can be no pulsations in the funis of a dead child; we all know that one of the surest signs of death in a child during parturition is the cessation of the pulsations of the cord. Furthermore, the redness of the lips and the healthy (not livid) appearance of the body, together with the rounded condition of the thorax, were highly suggestive of a feeble, though imperceptible, respiration.

The only attempt on the part of the plaintiffs to rebut this testimony was by alleging that this (admitted) life in the child was merely the remains of its intra-uterine life,—"*a prolongation of its foetal life*,"—extending its influence beyond the period when the child was separated from its mother, and galvanizing, as it were, what was in reality a lifeless mass of flesh and bones! This latter doctrine we hold to be untenable. The child was either alive or dead at its birth. Confessedly it was not born dead. No one would presume to bury an infant with its heart and arteries beating, and with a natural appearance of its lips and skin, even though it did not visibly breathe. Such a "*prolongation*" of life was, by the plaintiff's counsel, likened to the *momentum* imparted to a piece of machinery and retained for a while after the impelling power had been withdrawn. Here the motion might, in truth, be said to be merely the "*remnant*" of the antecedent power, and one that must of necessity soon come to a stop. But there is this immense difference between the two cases, which, at first sight, might seem so analogous: the machinery is but dead matter, subject merely to the laws of inertia; whilst the infant is endowed with a living organism capable of maintaining its own existence, provided it be furnished with the conditions of life. This

idea is further sustained by the well-known fact that many infants born apparently dead, and remaining for some time in this state, do actually revive and continue to live. I admit that in a very important sense its extra-uterine life was a "prolongation" of its foetal life, but precisely in the same way as it is in all our bodies. Certainly there is no *new* life imparted to a child after it is born. The principle of life mysteriously contained in the vivified germ is the same life continued on in the matured man, only developed. The life of the oak of a century's growth is essentially the same life that evidenced itself in the first swelling of the acorn beneath the soil. All we contend for is *life*,—not the amount or quantity of life, but the fact of life; and this latter, we think, was abundantly established by the evidence.

To discuss metaphysical subtleties on the subject of life before a court and jury, and to propound learned theories on the difference between intra- and extra-uterine life, in cases of this kind, may suit the purposes of ingenious counsel, but only serves to befog and confuse the plain common-sense jurymen. Besides, the rulings of the courts, both in England and in this country, have settled the question, in deciding that respiration (or crying) on the part of the new-born child is not required to establish the proof of a live birth, provided there are other evidences. Undoubtedly, the best physiological test of life is the pulsation of the heart. It is a more satisfactory proof than respiration, inasmuch as, in ordinary cases, life terminates in the heart, and not in the lungs or brain, since the heart is found to be beating some time after all evidences of breathing have ceased. The well-known experiments of Sir B. Brodie on animals also confirm this assertion. We do not pronounce a dying man to be *dead*, however feeble or inaudible his respiration may be, so long as we can feel or hear the throbbings of his heart; certainly we would hardly think it right to entomb such a person. And what is true of the man in this regard may be equally affirmed of the new-born infant.

This Delaware case may be regarded as a leading case in this country, and the finding of the jury (which was for the defendant) may be considered as establishing an important precedent in cases of a similar character. These cases, I may remark, are not of frequent occurrence; only a few have been reported in the English courts, and I can find but a single authenticated one in the law reports of the different States of our own country: that of *Garwood vs. Garwood*, which was tried in California in 1865. (Wharton and Stillé's *Med. Jurisp.*, 1873, vol. ii. p. 1083, *note*.)

In this latter case there were several circumstances in which it closely resembled the one in question: thus, the labor was protracted; the child did not breathe after it was born, but the umbilical cord and the heart beat for about fifteen minutes after extrusion from the mother; and the heart continued to pulsate two or three minutes after the severance of the cord. Besides, there were muscular movements of the hands and feet immediately after delivery.

In one of the English cases (*Fish vs. Palmer*) the court took the very extreme view that a mere twitching or tremulous motion of the lips of the child on its being put into warm water (and lasting but for a few moments) was sufficient to establish a live birth; and this without any observed pulsations in the heart or in the umbilical cord, or any sign of respiration. It seems to me that this is stretching the doctrine rather too far, inasmuch as the very slight contractions of the mouth that were noticed might be accounted for from the muscular irritability that had not yet been lost, but which, as is well known, continues for some time after death, and usually until cadaveric rigidity sets in. This *irritability* is believed to be an inherent property of the muscular tissue, and so long as it continues it may be excited by any external stimulus, such as cold, heat, electricity, etc., producing muscular contractions. But this sort of motion is a very different thing from the active movement of the blood in the heart and the umbilical vessels, produced by the regular rhythmic contractions of the child's heart, and kept up for half an hour after the complete extrusion of the child into the world.

Another English case (*Brock vs. Kelly*, Taylor's *Med. Jurisp.*, Am. ed., 1873, p. 625) came before Vice-Chancellor Stuart in 1861, and his decision confirms the views above expressed. Here "there was slight pulsation in the cord after separation from the mother, showing a feeble but independent circulation; there was no other indication of breathing than an arched state of the chest." In this case Dr. Tyler Smith considered that the beating of the umbilical cord "was a physiological proof that the child in question was not born dead;" whilst Drs. Lee and Ramsbotham, on the other side, testified that "nothing less than breathing could, in their judgment, establish the fact of a live birth." According to them, a child must breathe before it can be said to possess independent life. The vice-chancellor decided that proof of breathing was not necessary, and held that the pulsations of the cord, observed after birth, afforded sufficient legal evidence of a live birth.

That the above decision was based on sound physiological reasons is further shown by a case reported by Dr. Seale (*Am. Journ. Med. Sci.*, July, 1870, p. 278). He induced labor in a woman by means of ergot at about the seventh month of uterogestation. "A large child was born, after some difficulty, but it did not make the slightest effort to breathe; there was distinct pulsation in the cord." Was this child living, or dead? According to Drs. Ramsbotham and Lee, it was not alive. But the result proved the fallacy of such an opinion; for on subjecting the child to the action of hot and cold water, etc., "violent spasmodic contraction of the diaphragm took place, which continued for five minutes. The cord was now severed, and a little blood was allowed to escape from the foetal end; the tongue, which had fallen back, was drawn forward; a sudden spurt of a drachm of blood flowed when the constriction was relieved, and the child began to breathe very feebly, and so continued to breathe at long intervals. The heart beat very

Survivorship

(1)

but if the patient began to eat while the stream was passing, the usual symptoms were observed. Faradization of the cervical sympathetic during eating caused rapid diminution of the redness, and cooling of this side. Various investigations showed an apparently normal condition of the nervous system in general. However, electro-sensibility of the right cheek was diminished. The hearing, which was imperfect, was worse on the right side. Examination of the abdominal organs showed enlargement of the liver and spleen.

The increased secretion of sweat dated back to a fever from which the patient suffered in 1844, and which was accompanied by parotitis of the right side. X.

A MASCULINE MAIDEN.—An individual twenty years of age, who had always been regarded as a girl, and whose social status was that of the sex, discovered his mistaken identity at the age of eighteen. For two years he kept his secret, but, wishing to marry, he was of course obliged to change his social position.

The examination which he was obliged to undergo resulted in developing the following appearances as to the sexual organs. The scrotum, divided in the middle, contained both testicles, and on the left a scrotal hernia.

May 29, 1875]

MEDICAL

feebly; the pupils widely dilated, and did not respond to light. This condition lasted one hour, when the child ceased breathing; the death being undoubtedly caused by compression of the brain."

I think, then, that the above-mentioned cases sufficiently sustain the position that respiration is *not* necessary to establish a live birth. As M. Bouchut justly remarks, "Apparent death succeeding to birth, and characterized by the presence of a beating of the heart and an absence of respiration, is *only a diseased condition* of the new-born child (*atelectasis*), and whether it is cured of this or dies, it is living, although it has not breathed." (*Gaz. des Hôp.*, 1855, No. 124.)

In the California case above alluded to, the opinion of the judge, as expressed in an able charge, was "that in the case in question it should be held that the beating of the heart was spontaneous, and that the child was born alive."

SATURDAY, JULY 3, 1875.

ORIGINAL COMMUNICATIONS.

LIVING ISSUE.

BY THEODORE H. SEYFERT, M.D.

LAW, like every other science, is progressive, and adapts itself readily to those changes which intellectual development points out for its equitable administration. The common law, for instance, is said to be the accumulated wisdom of a thousand years. It grows by time, and is strengthened by the added wisdom of succeeding generations. But were reason to remain silent before authority, good or bad, we would soon be in as ridiculous a position as if the laws of the Medes and Persians were our unalterable code.

Legal reports are full of what are called "overruled cases," which simply means that judicial interpretation is not infallible, and that a case decided one way may, upon subsequent examination and reflection, be differently decided. There is such a thing as *bad* law, as there is such a thing as an illogical conclusion; and a decision that is not based upon correct reasoning, although it may have the grandeur of "authority" about it, is faulty, and liable to be "overruled;" but in all cases where the "authorities" are supported by reason, they stand, as they deserve to.

The Dover case (referred to at length by Prof. Reese, in his article on "What Constitutes a Live Birth?" in the *Medical Times* of the 20th ult.) is one of a character rare in our jurisprudence, and might very properly have been treated as the first of its kind, deserving an exhaustive examination of the reason and the spirit of the law bearing upon the subject, independent of the decisions in previous cases of a similar character. In determining the question of what is *living issue* within the meaning of the law relative to the "tenancy by courtesy," we must have a *reasonable* interpretation of the words "born alive," and to assist in so interpreting these words is the object of this paper.

Among the canons of construction laid down by Blackstone is this: "Words are generally to be understood in their usual and most known signification; not so much regarding the propriety of grammar as their general and popular use." The word *born* is understood by all, and as it is so understood the law understands it. It is the act of coming into this life, into communication with the outer world; and until this is accomplished the being is not born. The condition in which it comes is next to be considered; it must be *born alive*. Is it not reasonable to suppose that what the law contemplates in this term is not a partial or a qualified life, but an absolute life? that is to say, that the issue when born must be possessed of *all* conditions necessary to existence? Keeping in view the common-sense canon of construction, let us refer to Prof. Reese's paper, in which I find it stated that in establishing the claim of a *tenant by courtesy*, "what the

law requires is simply *proof of life*,"—not evidence to prove that the issue possessed an independent existence, but simply that it lived after its complete extrusion from the mother. Neither does the doctor consider the amount of life as worthy of special attention, for he declares that "all we contend for is *life*, not the amount or quantity of life, but the fact of life."

The word in its general sense refers to "that state of animals and plants, or of an organized being, in which its natural functions and motions are performed, or in which its organs are capable of performing their functions" (Webster). This is the popular acceptance of the word, and in this sense we must regard it. The word is also used with reference to specific stages of existence: thus, we say cell-life or germ-life, embryonic life, foetal life, in order to distinguish them from one another as well as from that kind of life now under consideration, which we will term independent life. The principle of life mysteriously contained in the germ is the same life continued on in man; and if the presence of the vital principle is *all* that is contended for, then the vivified ovule itself, or the living embryo suddenly thrust forth from the mother at any period of its career, may justly be regarded as *living issue*. But something more than "proof of life" is demanded. The amount or quantity of life is a matter of importance, as the following quotation will show. Every legitimate infant *in ventre sa mere* is considered born for all beneficial purposes (that is, for those relating to its own interests), but "as it respects the rights of *others claiming through the child*, if it be born dead, or in such an early stage of pregnancy as to be *incapable* of living, it is to be considered as if it had never been born or conceived." (Blackstone, Book I. *130, note.) Here the amount is measured in pointedly excluding the child which, *though it is not dead*, is incapable of living.

"To discuss metaphysical subtleties on the subject of life before a court and jury" might, under certain circumstances, "befog and confuse plain common-sense jurymen;" but I trust that they could readily be made to comprehend the difference between the amount of life comprised in one individual and in the 800,000 composing the population of our city; or that the existence of a State depends upon the number and the varied duties of its people. In other words, they could be made to appreciate the difference between the life of one cell and that of the countless number composing the body,—between the life of a tissue or organ and that of the being of which it is only a part. We cannot declare a person is alive because the microscope reveals the fact that cell-life is not yet extinct; and I am confident that even an expert witness would hesitate long before admitting the existence of an individual when it depended upon such microscopic evidence.

Under ordinary circumstances, the longer a person is completely submerged the less life do we find in the body, and the chances of resuscitation are correspondingly diminished. Our restorative meas-

ures consist in stimulating cell-action by artificial respiration, warmth, etc., and if their use is not attended with success, then we assert that the individual is dead; not because life has entirely departed from the body, but because vitality has diminished to such an extent that we cannot recall into activity those functions upon which the life of the individual is dependent. Thus, a newly-born babe may be said to be dead if it is incapable of exercising those functions without which life cannot continue. Recognizing this fact, the counsel for the plaintiff in the Delaware trial (*Stout vs. Killen*) alleged that the life in the child was merely a prolongation of foetal existence; but the defence held that this doctrine was untenable, and by a dexterous use of the word "life" succeeded in befogging the jury to such an extent that they sustained the claim of the defendant, notwithstanding the learned judge's efforts to lead them to a right conclusion.

A child born without the ability to breathe is not alive in the meaning of the law. Air is indispensable to life; and, says Dr. Draper, "In this particular the Scriptures have summed up the deductions of modern physiology in a single line,—no metaphorical expression, but the simple assertion of a truth: He 'breathed into his nostrils the breath of life, and man became a living soul.'" It was originally held that crying was a necessary proof of a live birth, thus showing that, in the early life of this law, respiration was needed to indicate life. But afterwards it was said by a learned lawyer, Sir Edward Coke, that it *need not* cry, "for perchance it might be born dumb." This, however, does not exclude the conclusion that it must respire, and nowhere is it hinted that respiration is unnecessary. The excuse for not making crying an obligatory proof relates not to the lungs but to other organs,—those of the voice,—and there is no reason to believe that the law now does not require the child to breathe before it can be called "living issue." Unless a placenta is developed, the embryo lives and dies as an embryo, for its further progress is arrested, and it cannot pass into that stage of existence known as foetal. And so with the foetus: it must live and die as a foetus, and can never pass into an independent life without the use of its lungs.*

In this connection, "profound and learned theories upon the difference between intra- and extra-uterine life" might very properly be studied by the "ingenious counsel" and explained to the jury, who will be called upon to decide whether or not the child had a separate and independent life; whether or not it was alive as a being of this world.

Foetal life is a dependent life. The elaboration of the blood which is essential for its maintenance is performed through the instrumentality of the placenta,—the lungs of the foetus,—and this involves a different arrangement in the route of the circulation from that which exists when independent life is established and the individual elaborates its

own blood. From the placenta arterial blood passes to every part of the foetal system, distributing its oxygen and nutritive elements to every tissue. As venous or impure blood it is returned to the placental surface, where, by endosmotic action, it is relieved of its carbonic acid and again supplied with oxygen and nutriment from the blood of the mother. It is unnecessary to refer to the anatomical peculiarities of the foetal circulatory apparatus further than to say their existence is owing to the important fact that the foetus must receive its breath and nourishment through the placenta. During this period the lungs are two solid, almost impervious, and utterly useless organs, receiving no blood except that required for their nutrition. Yet they are compactly stowed away and carefully nourished until the time arrives when the child's existence will depend upon their coming promptly to its rescue.

When the child is born and separated from its mother, the whole current of the circulation must be changed, otherwise it cannot live. The blood can no longer go to the placenta, for the source whence it received its breath is cut off, therefore it speedily seeks another channel, and passes in large quantities to the lungs. Now it is that these organs are called upon to fulfil the purpose for which they were created,—that of substituting a function of the placenta, and establishing in the being an independent life.

An independent life, then, can be said to exist only after the child has come into actual relationship with the world through the respiratory function. Unless air enters the lungs, its condition is precisely the same as it would be in utero with its cord tightly ligated. The child does not necessarily die upon the instant, for during labor it may live for five minutes after the cord has ceased pulsating (Barnes). It would be interesting to know how long life can continue cut off from placental and aerial respiration. Dr. Barnes states that a living child has been removed from the dead mother, by the Cæsarean operation, thirteen minutes after the maternal circulation had ceased. And instances where living children were extracted in this way within ten minutes after the mother's death are not rare. It is probable that no part of the foetus is supplied with pure arterial blood, and on this account it may be able to live longer shut off from the air than it would be if deprived of oxygen after respiration was established.

But it must be remembered that this is not independent life, for it is still living upon that which it has received from the mother. As yet, the child cannot participate in a single interest common to mankind; there is nothing of this world that it can partake of, not even the atmosphere we breathe; and it is as dead to all such interests as if it were still unborn. It is a prolongation of foetal life, likened by the plaintiff's counsel in "the Delaware case" to the momentum imparted to a piece of machinery and retained for a while after the impelling power had been withdrawn. A better illustration, however, might be found in a locomotive which, with steam in the chambers and fire in the furnace, escapes

* In confesso est respirationem a vita et vitam a respiratione separari non posse, adeo ut vivens omnino spiret et spirans omnino vivat.—GALEN.
Life means respiration; not to have breathed is not to have lived.—CASPER, vol. iii. p. 33.

from the depot without fireman or tender. Although it is cut off from the source of its supplies, it will continue to run so long as a sufficient amount of steam is generated by the fire within it. It is alive, so to speak, but in the condition of a child that cannot breathe. No fuel can be supplied, the fire must go out, motion cease, and the engine remain an inert mass upon the road.

With the exception of respiration, there is no phenomenon we can adduce to show the difference between foetal and independent life; and this is one of such a positive character, and attended with such prominent physiological changes, that I cannot do otherwise than accept the statement of Drs. Ramsbotham and Lee, "Nothing less than breathing can establish the fact of a live birth." I do not understand these gentlemen as admitting that a child is dead because it does not immediately breathe after its birth. "The fallacy of this opinion" is undoubtedly shown in the case quoted by Dr. Reese, where the infant commenced breathing after restorative measures were used. But in the Delaware case it was otherwise, for the child failed to respond in any way to the remedies applied by skilful physicians. And may we not argue that their want of success exhibited "the fallacy of the opinion" entertained by those who declared it to be alive?

Is the *beating of the heart* a satisfactory evidence of life, sufficient to establish its existence both physiological and legal? Temperature and muscular movement are also indicative of the presence of life, but, confessedly, not always reliable. Sometimes the fibres of a muscle have been noticed in rhythmical motion, so that "a sensation as of the pulsation of an artery was plainly felt" when one's fingers were pressed upon it (Carpenter's Phys.). Dr. Brown-Séquard "has observed some curious rhythmical movements, from five to twenty in the minute, in the intercostals, diaphragm, and some of the muscles of locomotion, after death." How readily an inaccurate observer might mistake this motion of the intercostals for that of the heart! and how much more easily one may be deceived when searching for that which is ardently desired!

By an English court, many years since, the tremulous motion of an infant's lips, in the absence of all other indications of life, was considered sufficient evidence to establish the fact of a live birth. But that decision would not hold good now, for we know that muscles do not lose their irritability immediately after death. And the heart itself,—the most irritable of muscles,—may it not throb after an individual has ceased to live? In some instances the heart will continue its pulsations long after the animal is dead. In animals killed with conium it will beat for many minutes after death (Dr. William Curtis, in *New York Medical Record*, May, 1875); and the frog's heart, even when it is cut into slices, will continue its rhythmical motions. It is true that the life of the body is dependent upon the functional activity of the heart in common with that of other organs; but does it follow that it must stop beating before we can say, "He is dead"? The hanging murderer is not cut down until the heart-

beat is no longer detected; but is he—the murderer—not dead before this?

One would not be apt to regard a headless body as a living being, yet it is on record that the heart of a decapitated criminal was seen pulsating twenty minutes after death, and continued with perfectly regular action, at the rate of forty-four pulsations in the minute, for an hour (Carpenter's Physiology). Was this "a satisfactory evidence of life sufficient to establish his existence, both physiological and legal"? Many cases might be cited having a tendency to lessen our faith in the reliability of this sign of life, but none of them are so remarkable as the one which I will give on the authority of my friend Dr. Renel Stewart, of this city, who has promised to report it to the *Times*.

In July, 1872, at 10 o'clock P.M., he was called to a neighboring house, in which he found a gentleman pulseless, cold, and stiff. The jaw had dropped, the eyes were fixed; in fact, every indication of death was present, and, as a matter of course, the doctor pronounced him dead. Happening to place his ear over the cardiac region, he detected the beating of the heart. There was no mistake in this, for by manipulating the chest its action became stronger, and he succeeded in obtaining a radial pulse. Cadaveric rigidity had set in, and he could raise the entire body by its head. Dr. S. visited the house at intervals until seven o'clock in the morning, and at each visit ascertained that the heart *was still beating*. At eight o'clock it ceased to beat, relaxation had occurred, and symptoms of decomposition were plainly discernible.

The points I wish to illustrate by this article are as follows:

1. The law, reasonably interpreted, demands more than "simply proof of life" in the issue before it can be called living.
2. That the proof of respiration was originally necessary to establish a live birth, and that there is no evidence to show that this proof is not still required.
3. That until respiration occurs the life of the child must necessarily be considered as foetal.
4. That the law, reasonably interpreted, cannot recognize a foetus as living issue. It must be born with a possibility of inheriting, which possibility fails if it lacks at its birth the functions of independent being.
5. That respiration is the only evidence of an independent life.

it, and that is available and germane for its proper illumination, and this is my apology for this communication.

In my original paper, some points, although thoroughly weighed in my own mind, were inadvertently omitted, which I will try to introduce now; should I fail, however, to do so satisfactorily, I shall be pleased to answer any question pertinent to the subject.

My patient is of a nervo-sanguineous temperament, and hence was often under inspection. He was ever on the alert for breakers. This causes me, naturally enough, it must be conceded, to speak with more assurance than I should be justified in doing in ordinary cases of syphilis. His penis was normal in every particular prior to infection. I have never seen any solution of the continuity of any part of it, or of the chancre-cicatrix, other than the initial lesion and the later chancre alluded to. He had "travelled" so much previous to marriage that no stress could be laid upon the ardor of being "newly married." I apprehended no danger of abrasions, consequently no "necessity to warn" my patient of the possibility of infection by such accidents.

He never had mucous patches or lesion of any of the mucous surfaces until nearly two years after the date of invasion, and then had what was described by me as a urethral chancre, a re-inoculation as I considered it at the time. I have not the slightest evidence that any abrasion of the penis occurred; hence, no point that the wife was syphilized by inoculation of his blood. If an abrasion occurred, it must have been microscopical. It is, under the circumstances, obviously impossible to say positively and finally that he did or did not thus infect her. What stretch of the imagination or of the truth, I submit, does it require for me to sum up that he did not thus infect her, when I only have a possibility, but not a probability, of such inoculation? If that source of contamination has been eliminated, it brings us again to the original "hypothesis," that of syphilitic semen.

Now, then, if the semen of a syphilitic man will impregnate a healthy ovum, and, later, that fertilized egg will infect the mother, does it not seem logical as well as reasonable that the syphilitic germ was present in the semen? and in this case, that element being present, why could it not contaminate a "uterus very susceptible to the transmutation of fluids"? Surely the mathematical proportions of a

says, "Here is one of the very smallest living particles carrying the most extensive powers,—powers which may reach to every tissue in the being that is to be formed. It is, nevertheless, suggested that the spermatozoon may be composed of millions of particles, one or more having been detached from every component element of the tissues of the parental organism. But this is not all; for every one of millions of spermatozoa must be considered as having been formed in the same way."

From what I have written upon this case, is a physician warranted and blameless (should subsequent infection follow) in advising a syphilitic patient, who presents no visible signs of the disease, that the only danger of infecting his wife will occur either from pregnancy or abrasion of his penis? May I ask Dr. Taylor if he would feel secure in so teaching a patient?

FALL RIVER, MASS., June 8, 1875.

A COMPLICATED TWIN LABOR.

BY H. G. LANDIS, A.M., M.D.,

Niles, Ohio.

AT 11.45 P.M. of November 5 I was called to deliver Mrs. S., æt. 29, fourth pregnancy, in labor since 8 A.M. An illiterate midwife in attendance had become alarmed at an unusual delay,—viz., the child's head had been born for an hour, and there was as yet no inclination of the body to follow, although the pains were powerful. On introducing a finger into the vagina in search of an axilla, a second head was found on the pelvic floor, in immediate contact with the thorax of the first child, and in a directly transverse position; the anterior fontanelle being nearly opposite and below the right tuber ischii, the posterior fontanelle a little below the left tuber. The anterior and already born head was covered by very thick membranes, which were divided by scissors and peeled back. During several pains this head was observed to be immovable, not inclined to yield to traction; neither could the posterior head be pushed upwards, but was perceptibly driven towards the outlet. Following this indication, two fingers were inserted in the vagina as far as possible, and the perineum drawn down during a pain; at the same time the anterior head was pulled forwards and up over the pubes. The second pain brought the posterior head so far down that it could be seen with the same membranes as tightly stretched over it as with the first head. These were again divided, and the succeeding pain drove the second head through the vulva; the rest of the child followed at once, and was followed by the anterior child. The placenta came away with light traction in six minutes. It was large, with two separate cords; the chorion and amnion were common. The children were both female, of the same size, and weighed each five pounds. The second head measured four and a half inches in the occipito-frontal and three and three-quarter inches in the bi-parietal diameter. In passing down it had pressed a groove in the chest of the first child, the sternum being flattened against the

Infanticide.

Homicide

Murder

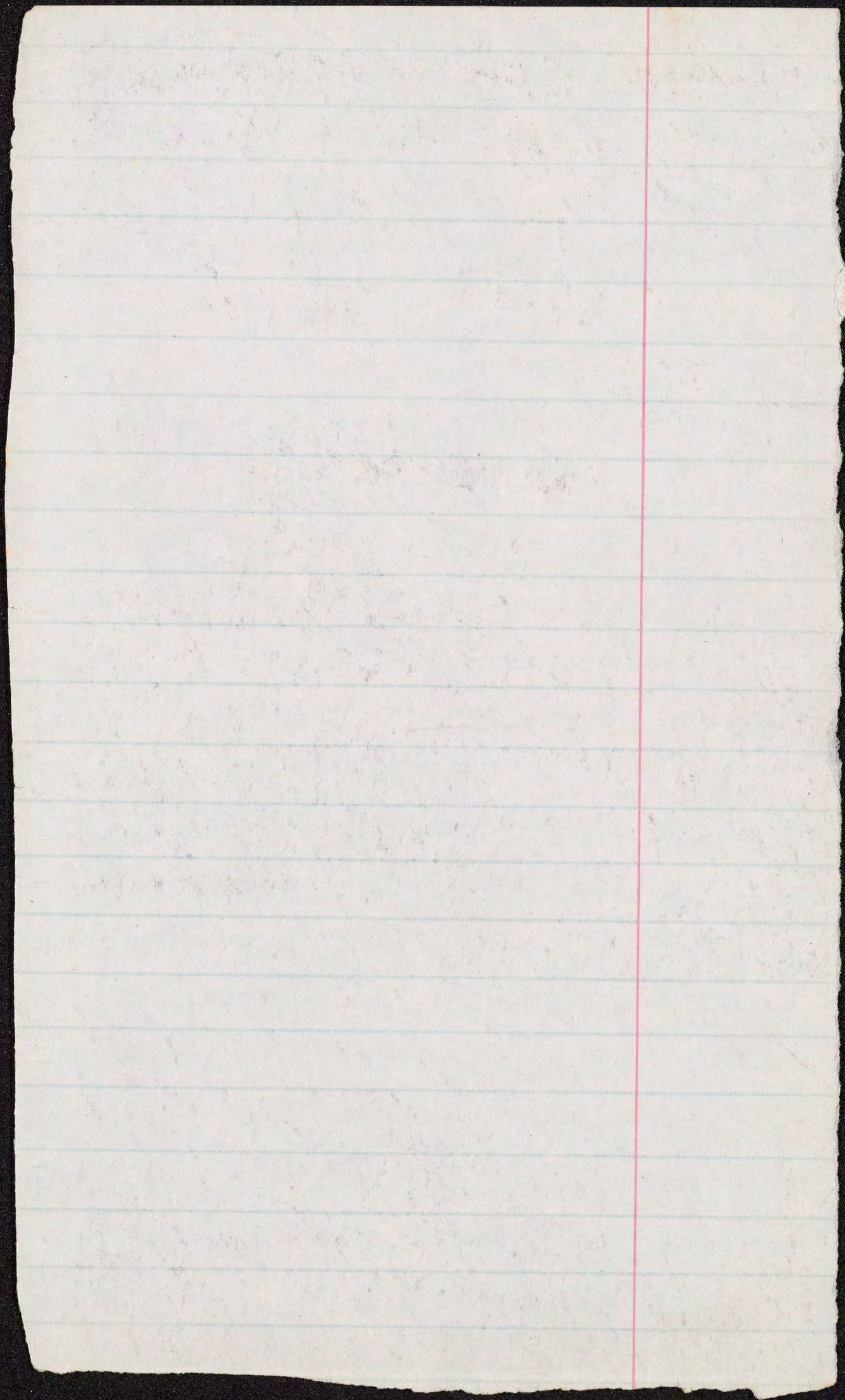
Old English law condemned concealed birth ^{when child did not survive} as murder.

This too harsh, — 1783 Dr. Hunter's essay
on "Uncertainty of ^{the} Signs of Pregnancy & Childbirth"

After 1/2 of century the two acts, of murder
of a newborn child & of concealment of birth
were separated — though not with satisfactory
clearness of definition — the one (murder)
pun. by death, — the other (concealment) by
imprison. not exc. 2 yrs.

Law yet imperfect, both in England
& in this country.

For murder, ^{the} child must be shown
to have been born alive — actually
to have lived after being wholly brought
into the world. If injured before being
wholly born & dying after birth, it is
murder. If killed at the time & in
the act of birth — it is not legally



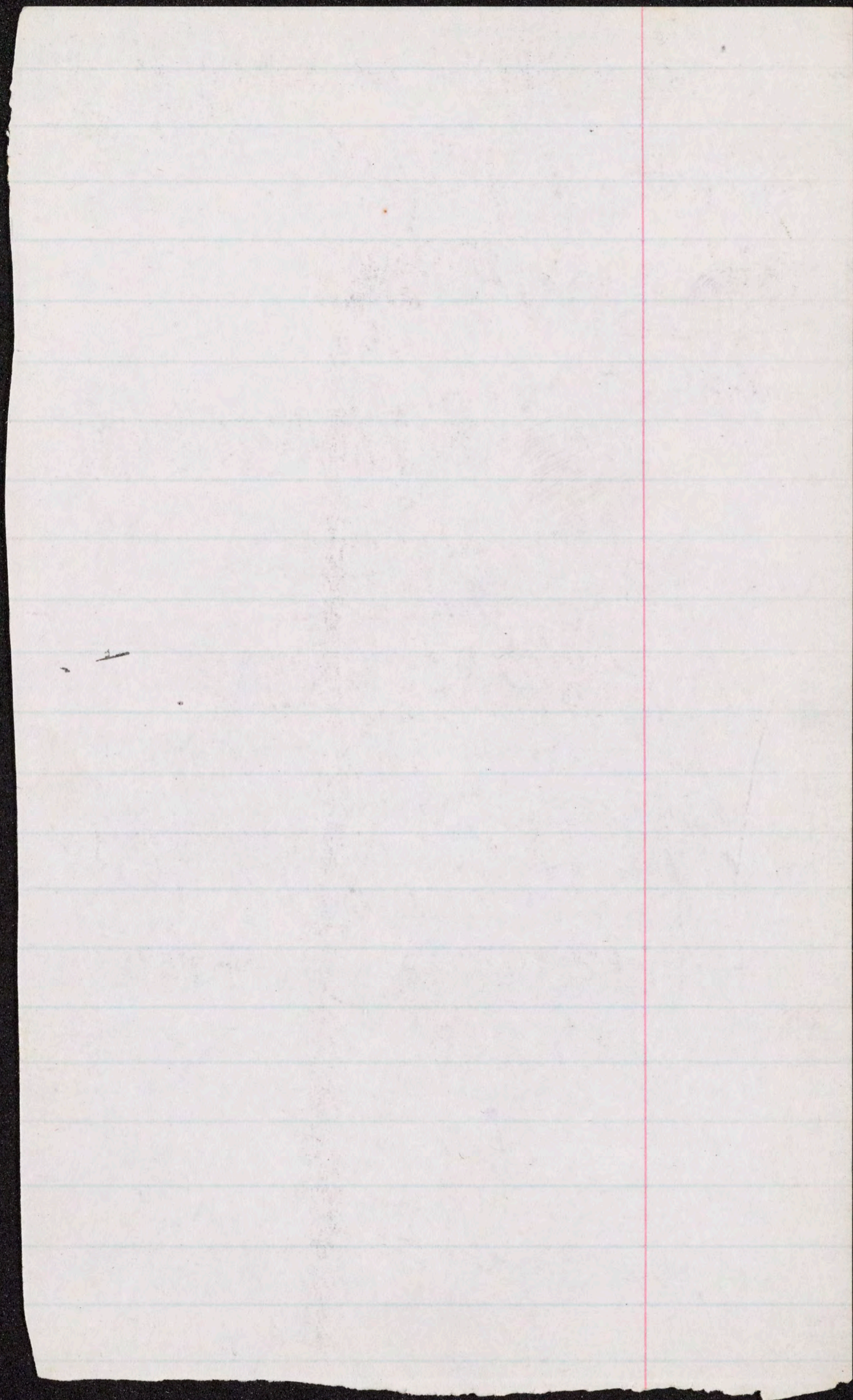
recognized at all — cases have ²
been dismissed by a Judge, the
child not being legally recognized
as having existed at all, when not
born alive.

(See Wharton & Stille on Law
in the U.S. against abortion)

In common law, destroying an infant in
utero during gestation, at any period, is
a high misdemeanor, punishable on conviction
by imprisonment, varying in duration in
different places — & sometimes also by fine.
But no penalty in U.S. laws to meet killings of a child
at the time of birth —
In reaction against all over law

law, — the laws are now left without
an appropriate preventive of child-

-murder. (Recommendation of ^{Cap. Punishment} Commission — Taylor —
"that a law be enacted to impose penalty for
taking the life of a child either before, at the time of
or after birth be." —



The evidence in case of ⁽³⁾
infanticide is often very hard to
obtain in completeness.

Qu. —

1. What is the degree of maturity of the child.
2. Was it born alive?
3. If so, how long did it survive?
4. How long has it been dead, when found?
5. What was the cause of death?

very well be
The disease
would have been
in the parents
the disease is

conclusion from
infection or near
not many.

9

in lead are
hospitals.
lead orlic.
and surely are
fe.
Lucifer matches
the disease is

As to Maturity

5

At 6 mos - 8 to 13 in. long

1 lb to 2 lb 2 oz weight

Eyelids adherent

Membrane over pupils -

meconium in large intestine

skin cinnamon red -
gall bladder serous fluid

7 mos -

11 to 16 in long

2 lb to 4 lb 5 oz weight

eyelids not adherent

pupill. membr. disappearing

gall bladder with bile

meconium in whole of large intestine

skin dusky red -

8 mos

14 to 18 in. long

3 lb. ~~4~~ 2 to 5 lb 7 oz weight

skin rosy

nails nearly ends of fingers

pupill. membr. gone -

(scrotal folds at intern. abd. ring)

4

9

they are exposed
to from them
see arising from it.
names to the
three occasional
sun light. and

Homunculus.

Macfarlane

(5)

16 to 20 in. long

4 lbs 5 oz to 7 lbs weight

Head covered with hair

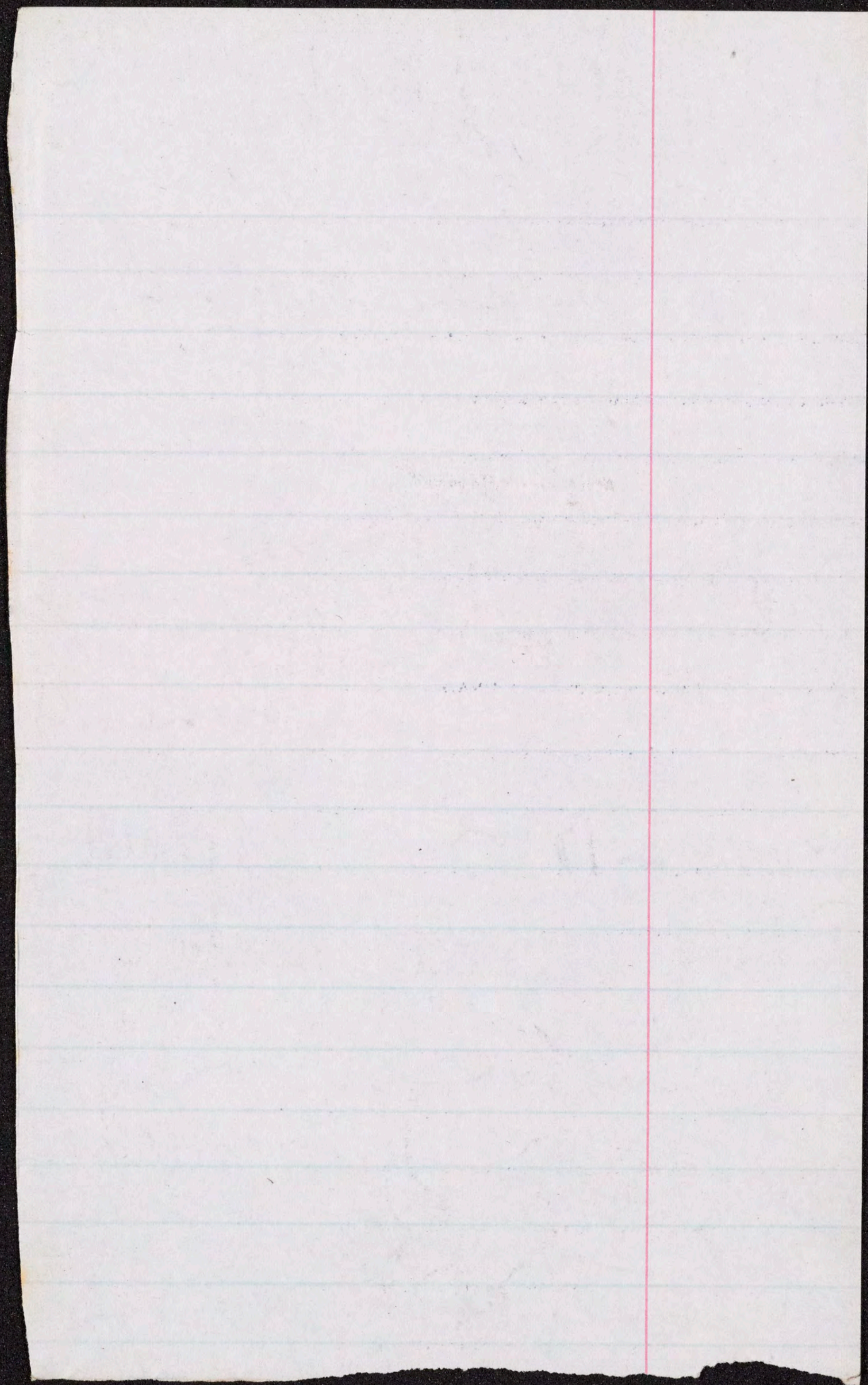
scrotal glands in scrotum

Extremes — at birth — full term —

Greatest 32 in long & 18 lbs weight

Least — under 16 in 2 lbs 6 oz.

The earlier less mature, the
greater the probability of still-
birth — of course the less reason to
suppose violent death of the child —



As to the fact of live birth, (6)
we look for evidences of life

1. prior to respiration

2. Subsequent to it, if it occurred.

Death being instantaneous, and then

Intra-uterine maceration causes

shrunken & flaccid, flattened appearance

ribs very prominent - head fully

flat according to the way it is laid

Skin soft, discolored - cavity contains

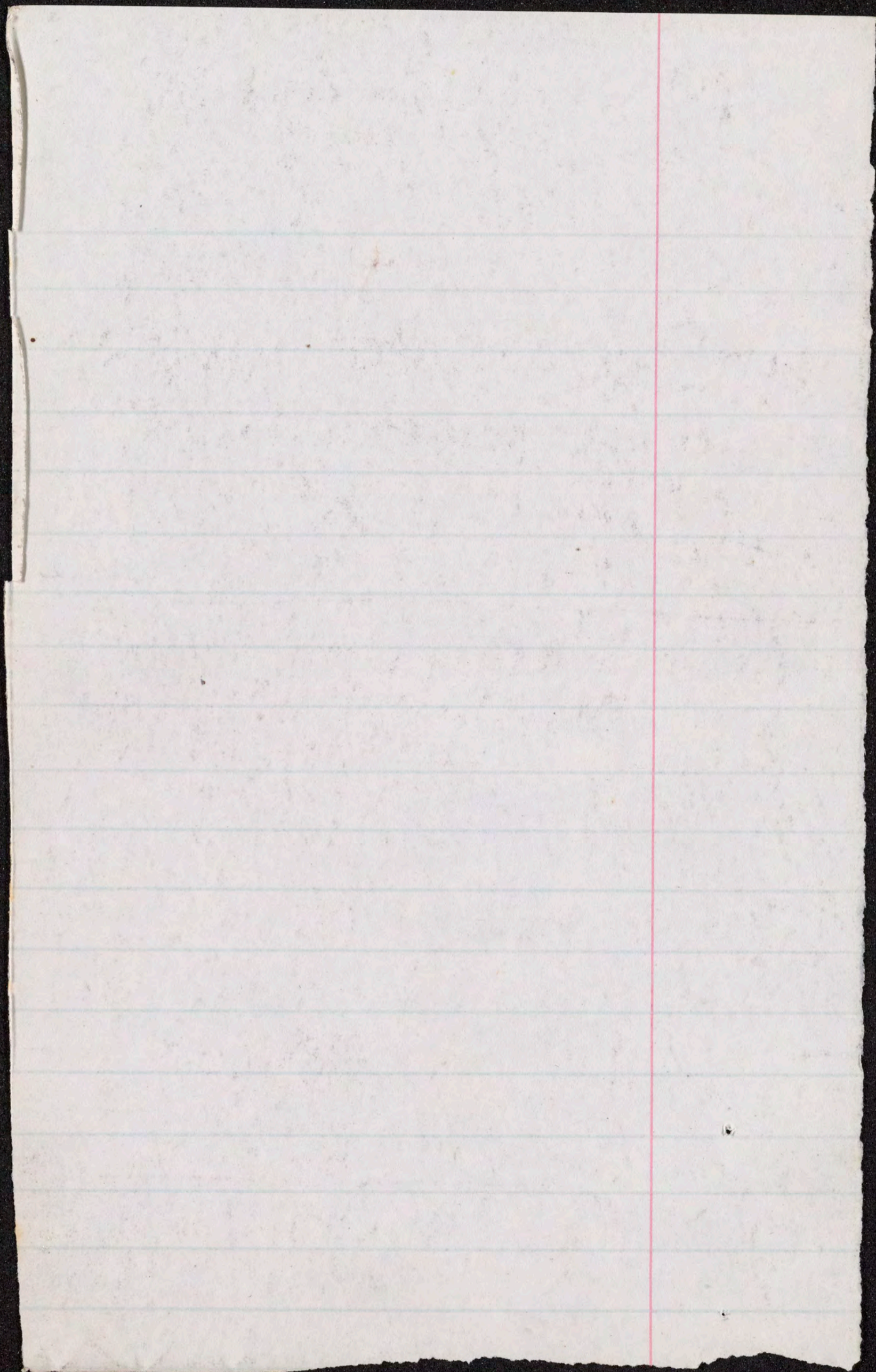
thick serum. More so according to

length of such immersion -

Not the same as putrefaction.

Putrefaction is a change shown to be just

born; of course would precede death in utero -

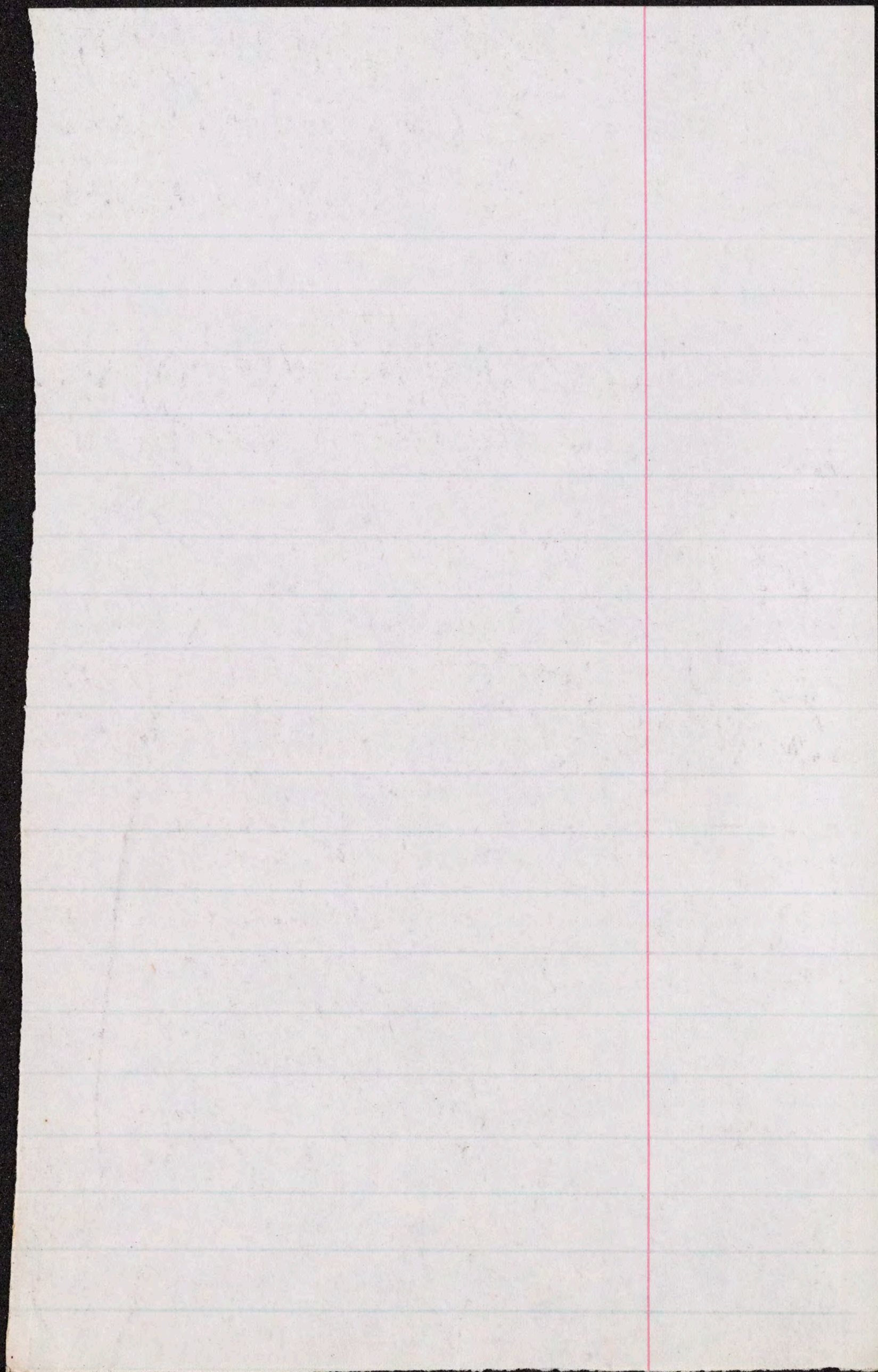


Violence may be shown by ^{fract. of ribs} its marks or injuries left, ^{to have} been necessarily done after birth, while blood circulates (as when ^{obtainable} hemorrhage) & yet no proof of respiration having taken place.

Few instances of such as this, where violence appears to have been done before breathing began.

Mostly, evidence of live birth must be sought for in ^{the} proof of respiration.

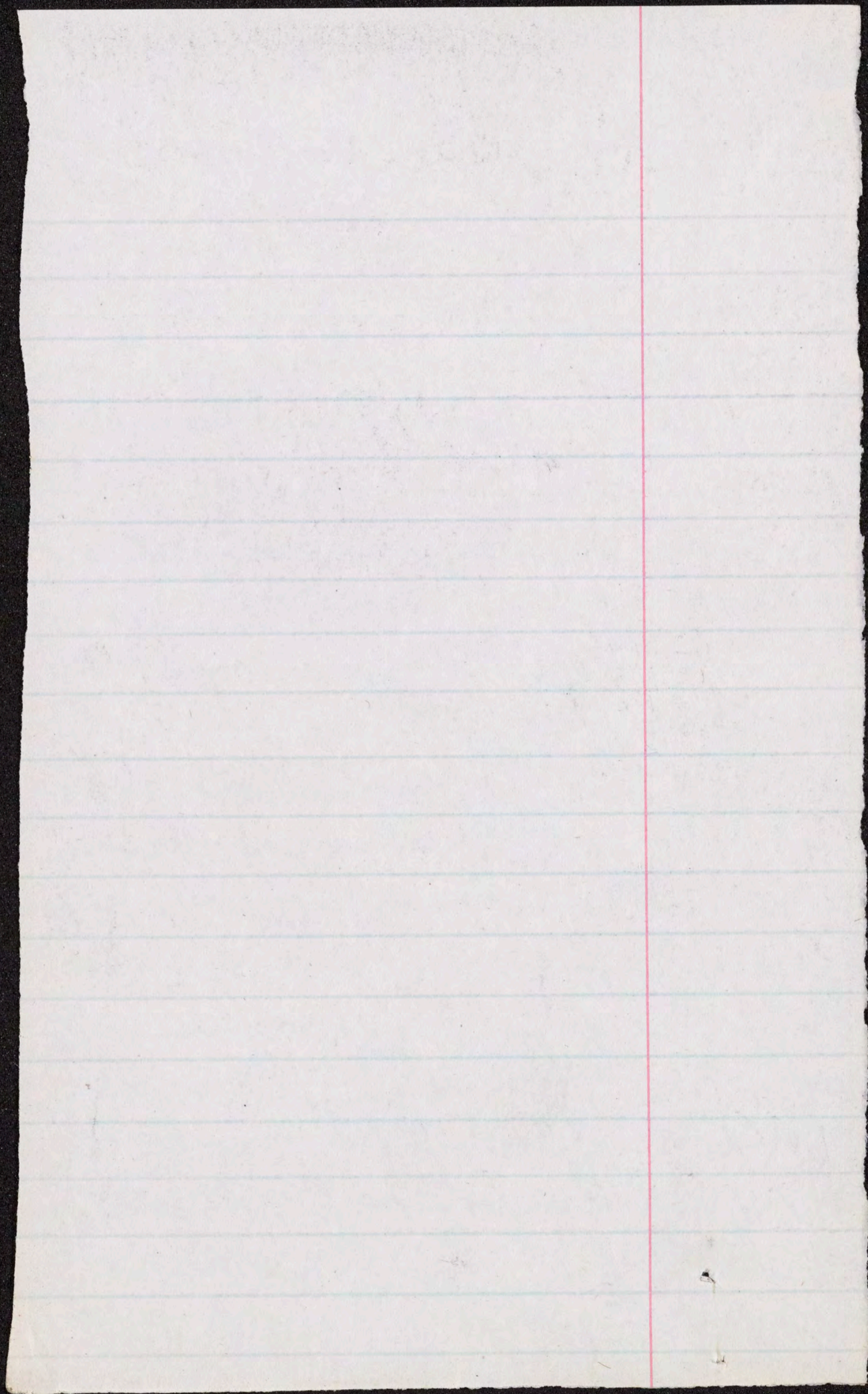
Lungs never breathe into or inflated look like ^{an} adult liver; all alike dense & dark red or gray purple brown



After breathing, cells of lung (8
more or less expanded - right lung
first and most readily, - especially
upper lobe.

Fresh lumps, ^{just} breathed into, have
the cells made visible as brilliant
vermilion spots; after some days they
fade - either after death or when
the child has lived several days.
In the last case, the lumps get
much the look of the adult lung.
The cells also have a somewhat angular
shape, & are arranged in groups
of 3 or 4 cells or more together, mostly
in Δ (x), a little prominent.

Air from putrefaction will
distend the lung, but irregular,
& with all the evidences of decomposition.



The air from putrefaction collects (19)
between the pleura and the
lung, in globules like peas, or
in strings of little vesicles. What
some speak of as emphysema in
such cases must be this gaseous
distention from putrefaction.

Inflation may expand the
air cells in like manner; but
it does not (when practised on
dead ^{or nearly dead} lungs) fill the lungs with
blood; which is important.

Respiration in the newborn may
be imperfect — only gradually
becoming complete.

and also from
the gases from these
and therefore under
the needle from
particles of steel
or iron from
and cause sad

Cleaning serves
to the amenation
the various gas
Working in deep
various damp
to the absence of
pure air.

The weight of the lungs (10)
is increased by breathing; not by
the air to any great amount, but by
the blood circulating at once in
the vessels of aerated lungs. This
is ~~very~~ significant.

Nearly $\frac{1}{4}$ is added to the weight of
the lungs after full breathing —

Before, average 769 grains to 874

after " 820 " to 1195

This is however, liable to too many
variations to be trusted alone.

Imperfect resp. may add but $\frac{1}{8}$ to weight.

Inflation imitates breathing in its ef-
fects — Dr. Guy says the amount of blood
is then in the lungs the same — I doubt it

Then their children
dreadfully liable to
diseases. Now they
had one of the
been free from
diseases.

The practical
each of these is

That First
violators should

10

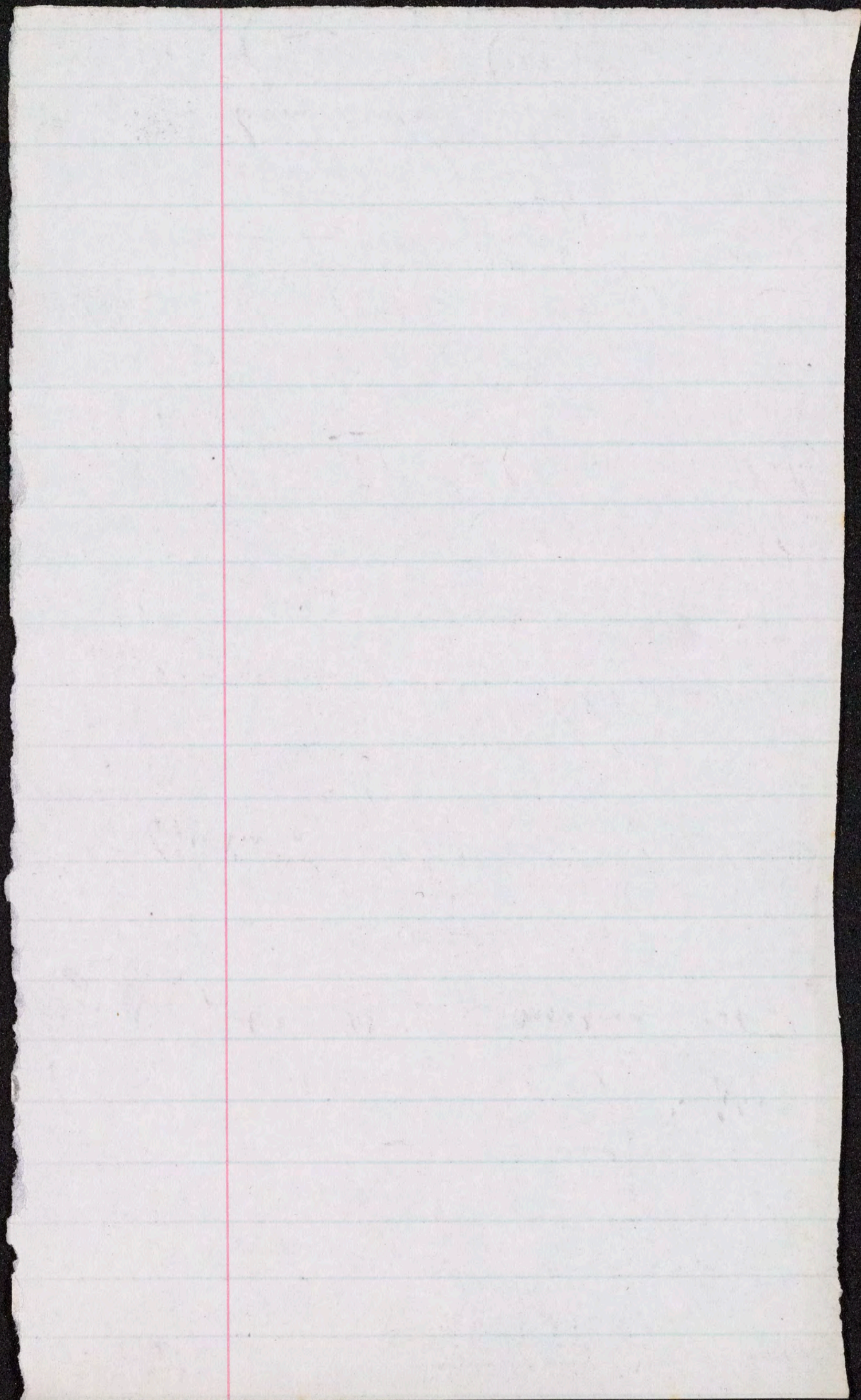
Persons working
liable to lead
lead palsy &

which slowly a
destructive & to

Those making
are not

Dr Taylor does not distinctly ¹¹
answer the question, but implies
that it would be less in the
lung inflated in the chest ~~than~~
~~than~~ artificially in the moribund state.
Why should anybody ever ^{assert the}
inflate the lung ^{in a suspected case}?
Why this question
or difficulty?

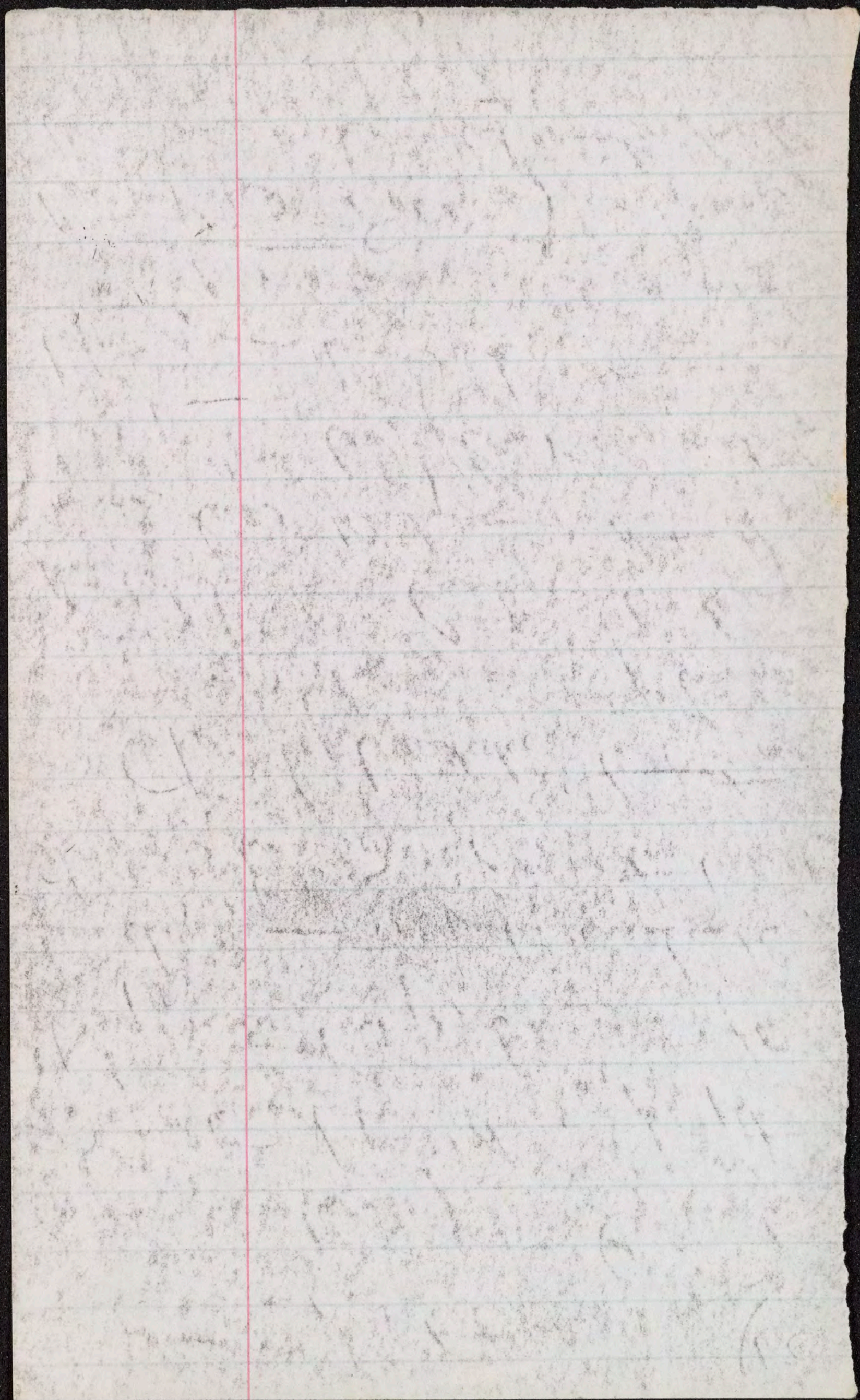
Because, after child murder,
the child having breathed first, - the
plea might be set up that it
really did not breathe, - but that,
hoping that it was not quite dead,
artificial respiration was used to res-
tore it - and that this caused
the appearance of respiration in the
lung, it being still-born or born naturally when born.
This plea is rare.



Ploucquet's test, founded (12)
on supposition of a definite
proportion between the weight of the
body & the lungs, before and after
breathing, — is quite unreliable.
The proportion is not constant at all.

The "hydrostatic" test turns
on the specific gravity of lungs
that have been breathed into being
made less thereby — so that they
will, after br., float on water;
before it — they sink.

First the lungs are tried whole,
then cut into a dozen or more pieces,
then each piece after somewhat forcible
compression with the fingers.



Is it then, certain that all
 lungs that float must have been
 breathed into by a living child, - &
 that all lungs which, whole or in
 pieces, sink, belonged to ^{the} still born?
 No, it is not (entirely) certain.

Lungs that float may possibly
 have been inflated (if not putrefied)
 Lungs that sink may do so because
 of disease (hepatization, ^{or} cancer, etc.)
 though this is uncommon —
 or, because, while the child
 lived, for a number of hours, or
 of days — the respiration was so
 imperfect as not to give buoyancy
 even to parts of the lungs.

of course, not so.
 that no are certain?
 Is it really
 atelectasis -

VIII

By general care
By developing his
muscles, by active^{+, regu}
to have pure air,
& colds, protection
weather. His food
& regular, & of his

IX

The old view in
is that near relate
-marry; but a few
the opposite view
this taking place in
pigeons &c without
also that in ancient
was very common.
always married three
Common among the
most abundant evi
-facts of this are to

(14)

Compression drives the
air out of the lungs very readily;
only putrefaction be its source;
& more readily from artificially
inflated lungs than from those dis-
tended by breathing; yet the
difference is not so constant as to
be decisive.

Still, an unskilful person
would not be likely to succeed in making
a good imitation of breathing by such
inflation in a still born child. And
^{mothers, accused of being a}
a ^{murderess,} using this plea, which is
a very improbable one, would have to
sustain it by evidence of other proof of
anxiety for the life of her child.

that he does not ~~with~~
of marriage to exist

That it is wrong
by ~~many~~ of the off
(as compared with
of improvement

X

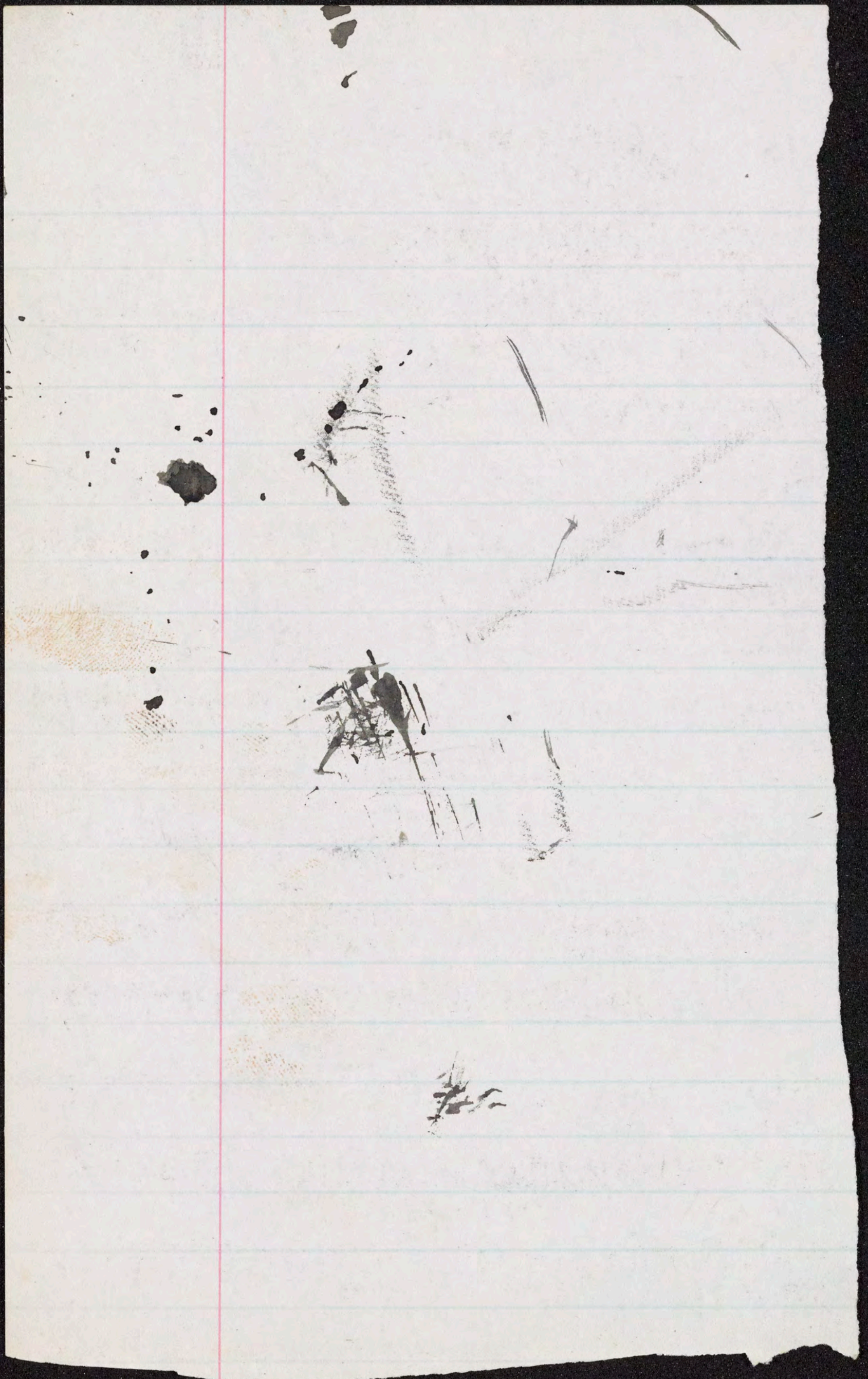
Lead working in lead
get some of it into
very little is quite
cause lead colic or lead
(Making Lucifer matches
may be breathed wa
in furious ... In
fine particles fly
air & are quite

In unskilful attempts, too (15)
And will be apt to be forced
into the stomach. Its absence
there will and to invalidate
the plea.

Crepitation ^{on pressure} is another sign
of respiration in the lungs.

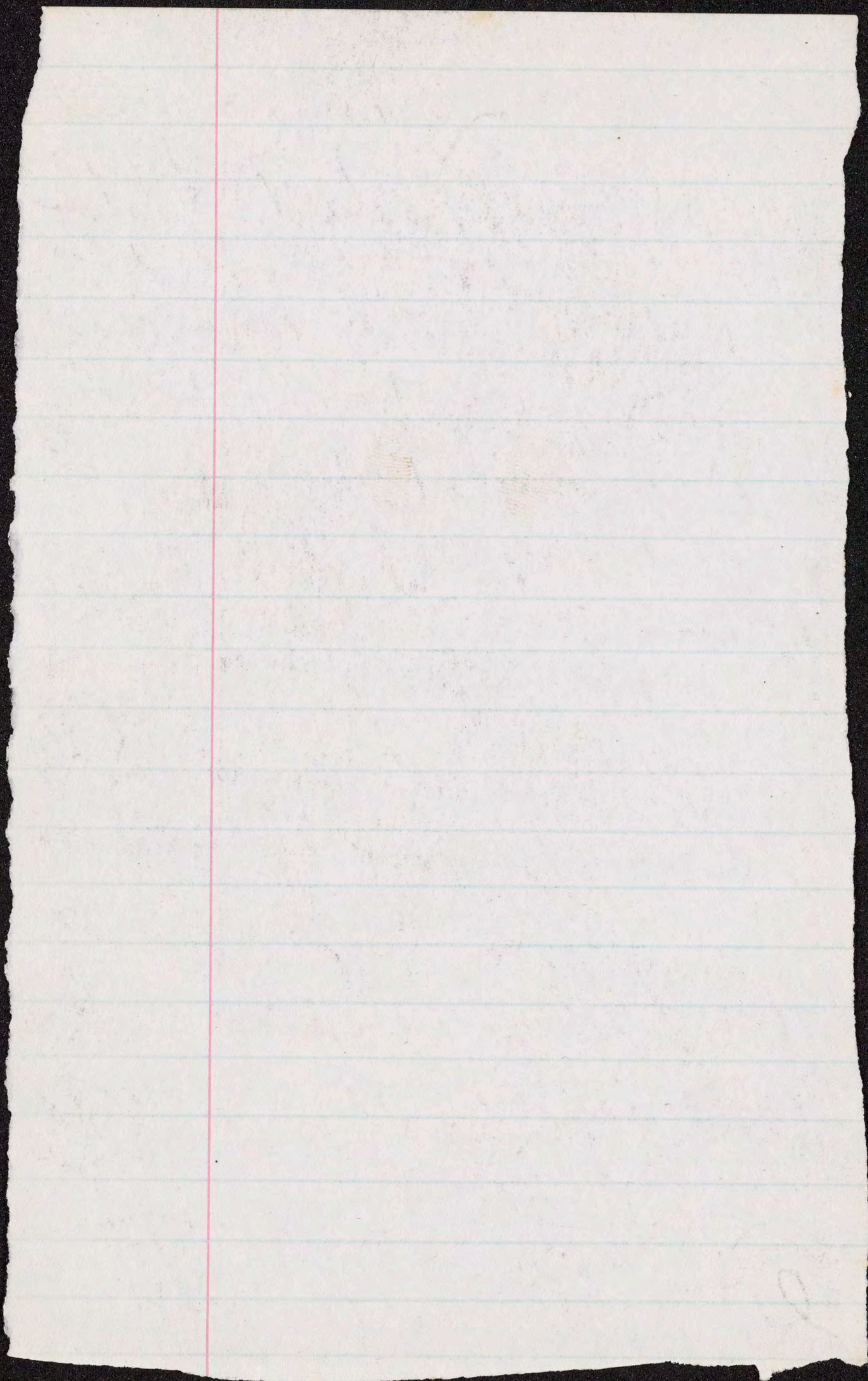
Dr Taylor says, —

"If in the body of a healthy full-
grown child, which has but recently
died, we find the lungs filling
the cavity of the chest, of a light
red color, spongy, crepitant be-
~~neath~~ the fingers, weighing at least
2 ounces, and, when divided into
numerous pieces, each piece floats
on water, even after violent compression,



is it possible in such a (10)
case to doubt that respiration
has been performed?" He adds
"It would be difficult to point
out an instance in which an
affirmative medical opinion would
be more surely warranted by the
data upon which it was founded."

I would, in such a case, if
also the lungs presented the vermilion
points & groups of cells in 4's, dwelt
upon by Dr. Ewing, - & if moreover
the stomach were free from air,
feel bound to testify that the
child had breathed.



(17)

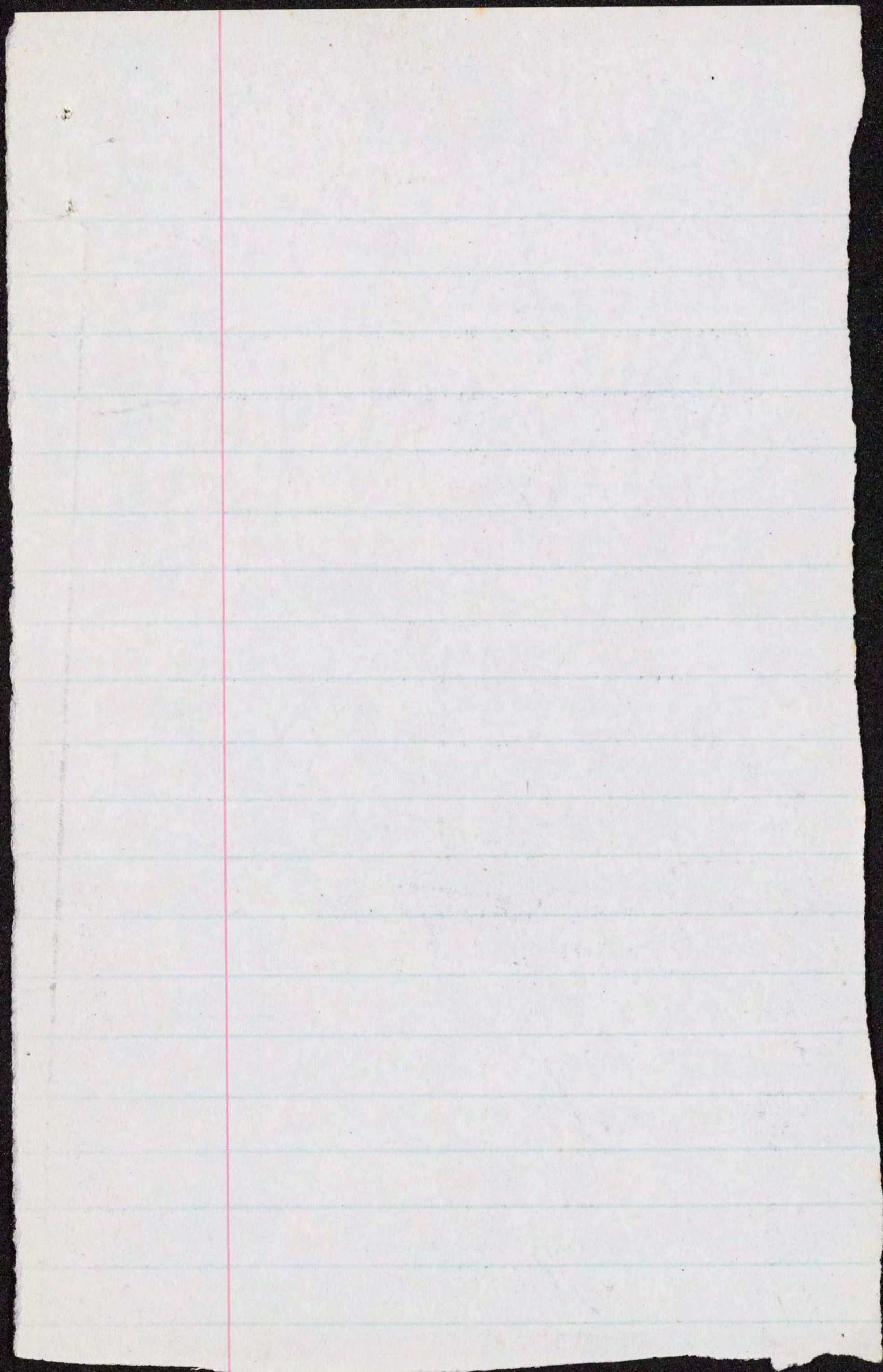
Then comes another question.

Did it breathe first after
birth — or at least did it
live after being entirely born,
as shown by respiration, — or
did it ^{begin to} breathe before birth,
and die before ~~that~~ birth had
taken place?

Either is possible.

(It ought not to be practically of importance).

Respiration even in utero has
in rare instances been known to occur
the mouth of the child projecting at the os uteri.
Water being delivered in a greater
number of cases.



After delivery of the (18
heart, more readily of course than
before. Usually, in such cases,
Delivery will be safely completed.
But, death may, sometimes, hap-
pen before complete birth, from
natural causes.

Inspection of the lungs will
not make it certain in what sit-
uation or condition the child began
to breathe, or how long it continued
to do so. But if the lungs
are completely expanded, it
is very improbable indeed that this happened
before birth.

Hygiene

1. State briefly the influence of climate, of exercise and explain the principal changes in persons prostrated with illness.

2. Give the classification of foods according to their composition and to their uses in the diet of each class or group.

3. Sum up in a few sentences the principles of vegetarianism, and

4. Give an account of the changes it may undergo and of the modes of testing its effects.

5. Compare the quality of

Other proof of live - (19)
birth is sometimes attainable.

Food in the stomach -

milk - stored & -
by the microscope -

Blood or meconium in stomach not decision
of live - birth. -

State of Umbilical cord -

Within 12 or 24 hours a visible
change near the abdomen, where
it enters, the healthy integument -
the cord separates after some
Days -

^ ^ ^ ^ ^ ^ ^ ^

is unwholesome because
 dissolves a small portion
 the which is very injurious.
 may injure the jaw-bone
 inding needles small par-
 suspended in the air, which
 cleansing serous, the foul
 ss to health, though some
 ned to it.

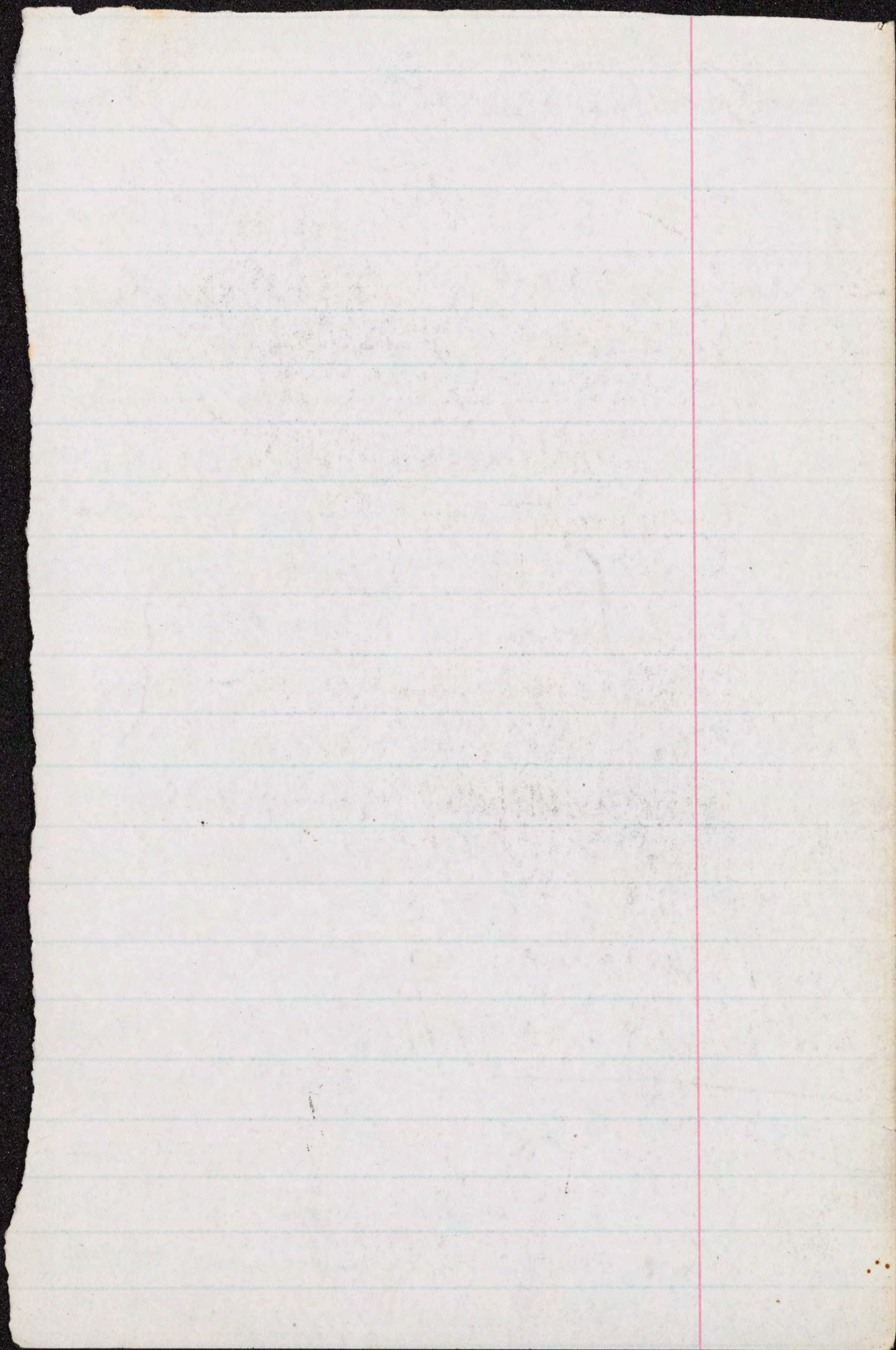
here is great ^{danger} from heavy
 n which may suffocate;
 burnt hydrogen which

Amphion.

Foramen, closure of
foramen ovale between right
left sides of heart, &
of ductus arteriosus, was
supposed to occur immediately
at time of birth.

It is shown to be not cor-
Billard has proved that the
foramen ovale is open in 25
percent & the ductus arteriosus
in 15 percent of cases as late
as the 8th day of ^{marks of violence upon} living child, diff. from
those of dead.

Supposing a child to have
been known to be born alive & to
have died shortly after — what may
have been the causes of its death?



It may have been

(21)

1. Protracted delivery, exhausting ~~it~~ or compressing umbil. cord, in ~~or~~ ^{for presentation} cord around the neck

2. Constitutional debility —

1 in 20 births still born of
legitimate — 7 males to 5 females —

1 in 10 illegitimate —

3. Suffocation in maternal ^{fluid} Discharge
immed. after birth

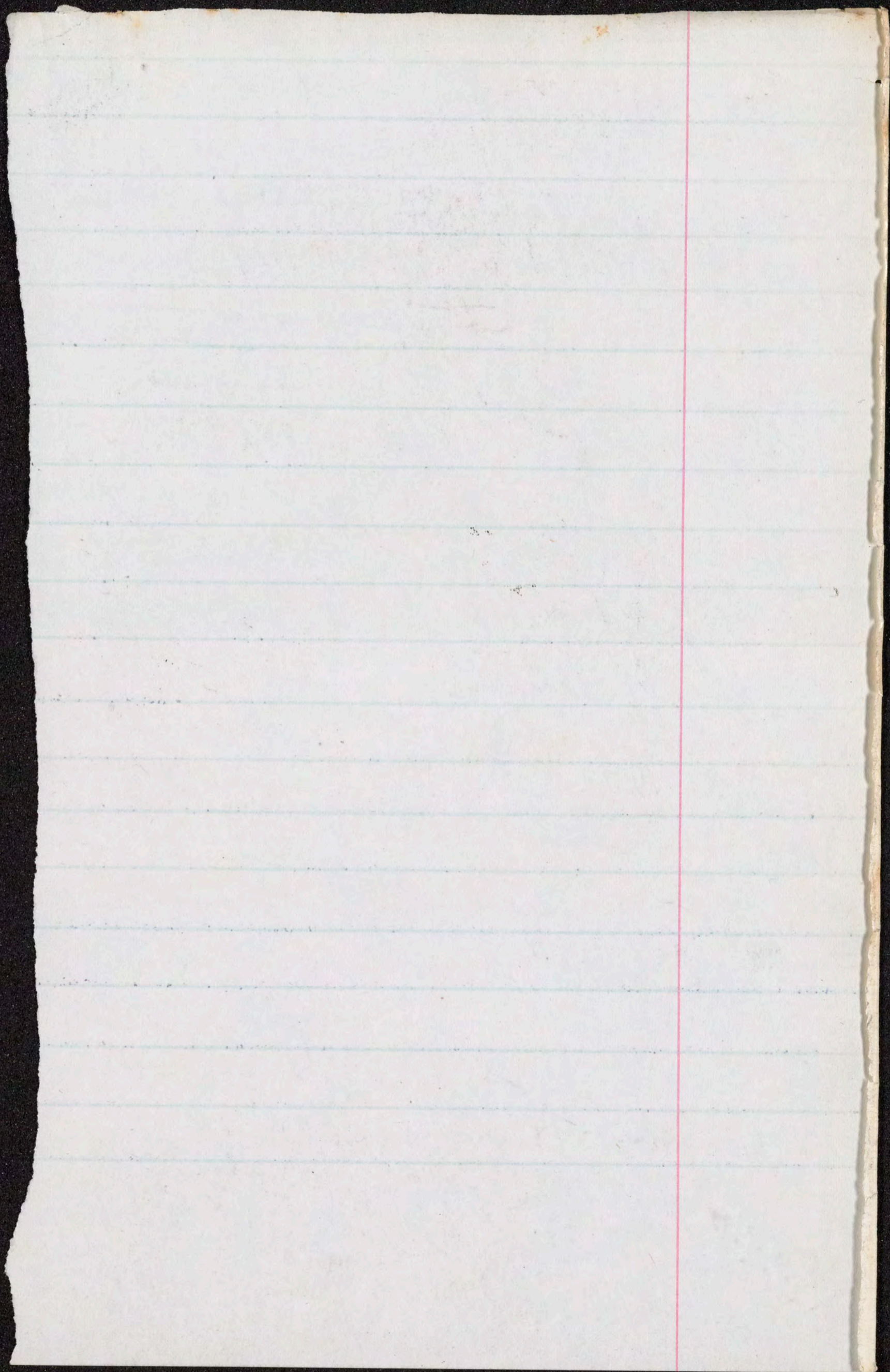
4. ~~In part of birth~~ Malformation,
caused
as cyanosis — do —

5. Atelectasis pulmonum —

6. Congenital Disease, as

congestion of brain — a lump
(hepatization?) of lungs — tubercles

Schistosom cancer — Oedema



7. Violence

(27)

8. ~~Mania~~ -
~~56~~

9. Exposure to cold.

Violence may be by

1. Suffocation

2. Drowning

3. Blows producing wound or
fracture of skull

4. Dislocation of the neck,

plainly see what danger
 use of alcohol as a beverage
 in health take alcohol,
 excitement, and the
 when he can not get it.

induced to take it often
 on becomes a confirmed
 it be properly given to him
 no danger.

persons ought to be especi-
 who have once been intem-
 inherit a constitutional pro-

8

a predisposition to consume
 increase the length of his
 his general strength, & by
 by vocal gymnastics.

For one who has not got the
 but he ^{who} already has it, ought
 a course

~~Wt. in g. Indif. Irr.~~

~~Interferer~~

Suffocation is easy to
effect — hard to prove.

Other evidence needed to aid it

always. — It may be effected by chloroform & foul air,
leaving no marks.

Suffoca. may be accidental,
or by Caul over face —

Drowning not a common mode
of infanticide — more often
killed otherwise & then thrown
into water or a privy for
concealment. May be so
thrown alive & thus drowned.

distilled water, rain-water,
and artesian well water.

6. Give an account of
of tea, of coffee and of
effects upon the human system.

7. What statement of
regard to its effects, agrees
experience, and explains the
attending the use of alcohol and

8. How may a person inherit
best increase his probability of

9. State the old and common
the marriage of near relations,
by some, - with the grounds of the
- sion derivable from each.

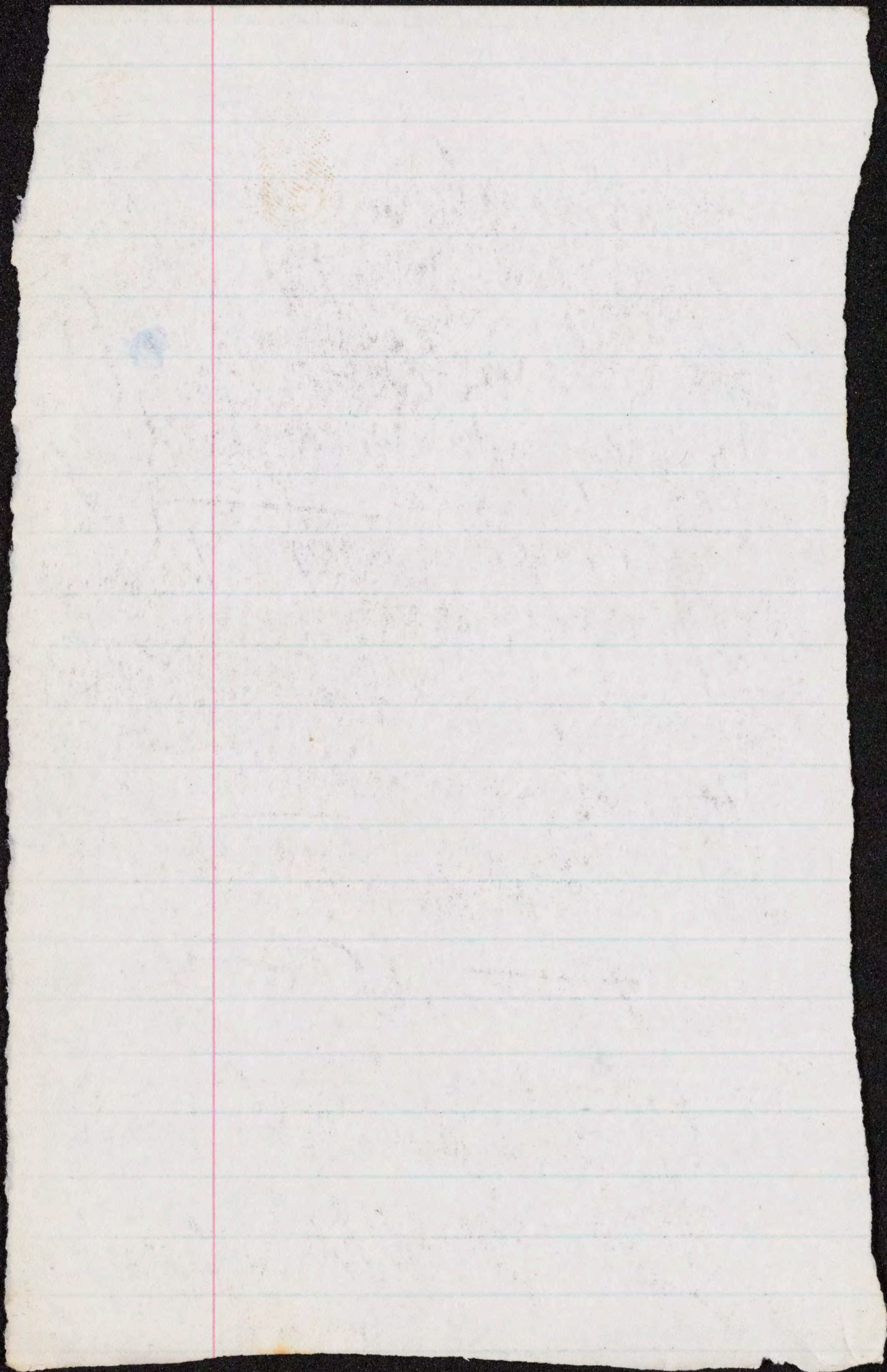
10. State the reasons for the
- lowing occupations: working in
needle grinding, cleansing
deep mines.

Here, again, other proof (24)
besides material is needed
to make out the case, as
one of design, not accident.

Wounds make themselves
known to the eye as in other
Cases — ^{Sometimes fatal wounds are} hard to detect — ^{from foretelling} e.g.

Fracture of skull has
happened by unexpected delay
in the erect position — ^{when}
head strikes the ground or
floor.

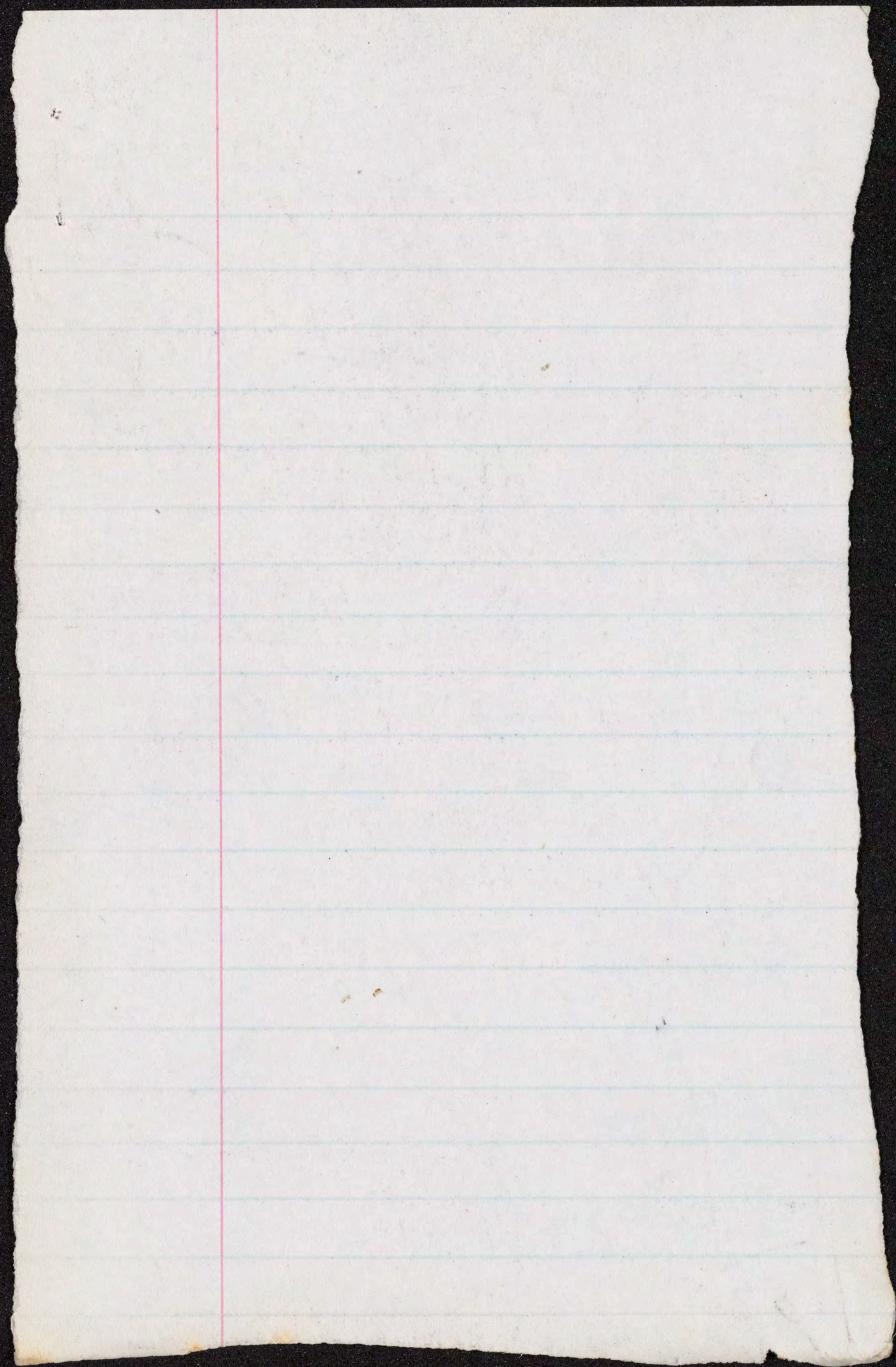
Dislocation of the neck
never accidental. ^{et}



(25)

Persons of Newborn children
is very rare, though possible

The question whether it is
to be thought that a newly
delivered woman could have
strength enough to walk
to some distance & commit her
care upon a ^{the body of} friend or
a husband? her child
must be, ~~there~~ on god all
things depending answered
in the affirmative.

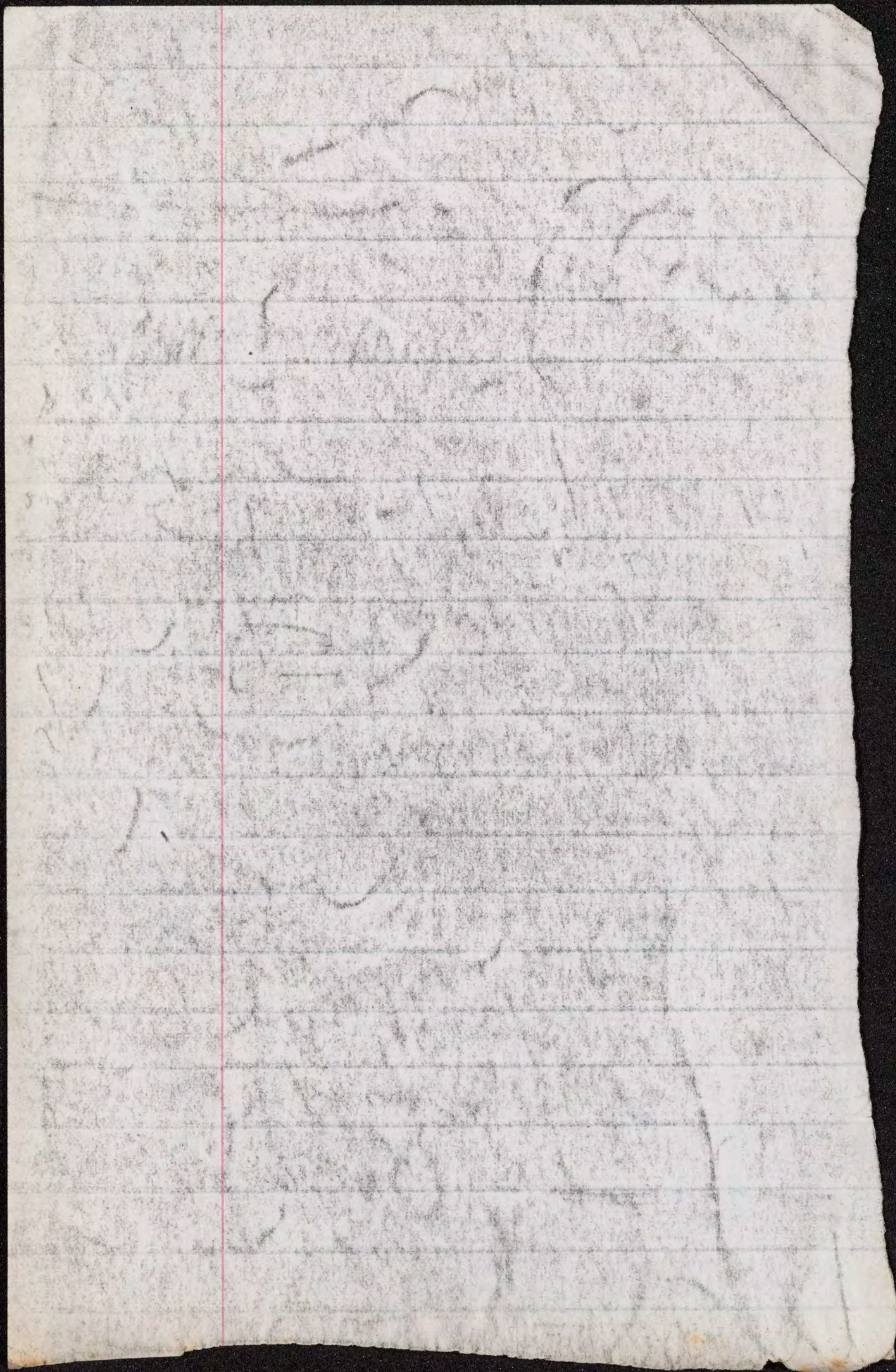


~~In concluding upon this topic,~~

(26)

I am sorry that the course
of our duty in ^{outline of the} study ~~of~~
of medical jurisprudence leads us una-
voidably among such painful subjects.

But, I believe that a true and
enlightened humanity will not
justify a wish, such as mere thoughtless
sympathy or natural charity might seem
to suggest, — for the retention of such
defects in the laws as may allow the
more ready escape of ~~any~~ criminals,
^{even} among those more truly pitiable than
most others. But, I believe also,
that ~~a man who~~ the greatest defect
by far is, both in law and in ~~manners~~
~~the common voice of~~
action of society, — in not according
a just measure of reprobation in
proportion to real guilt. It is



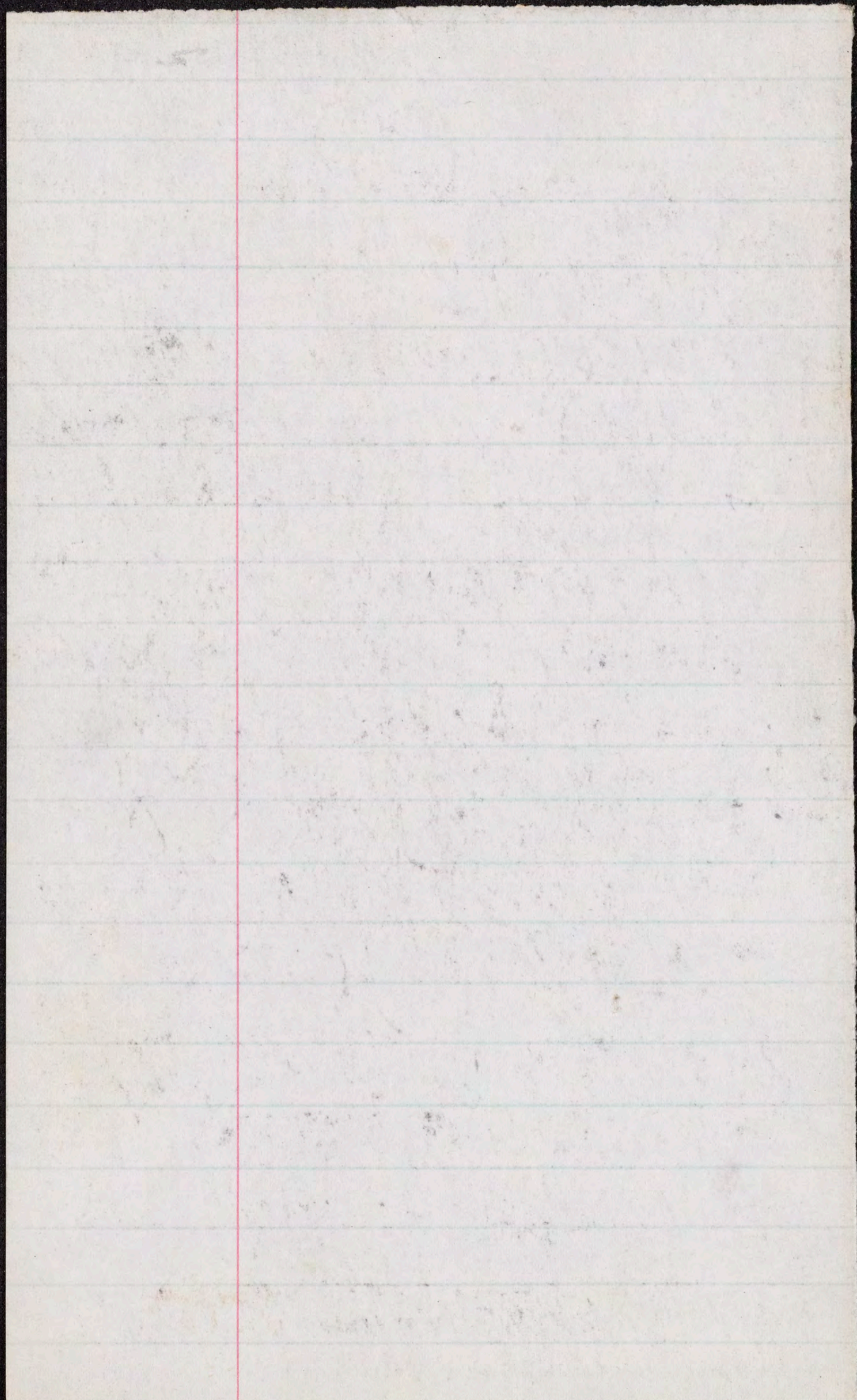
not in the interest of one (27)
sex only, but in that of humanity
and divine right, that the claim is
made, that, where wrong is done,
the principal doer should be
condemned, punished and outlawed
as such. Till this is righted, there
will ^{remain} ~~stand~~ standing a most glaring defec-
tiveness of equity, not only in jurisprudence,
but in ^{the attitude and action of} society at large.

I have not, so far, spoken,
in connection with infanticide, (except
incidentally), of feticide, the
criminal extinction of the life of a
human embryo before ^{the time of} its viable
maturity. I call it criminal; for it

into the body & would
Cleaning sewers &
the bad air & the
liable to suffer &
In deep mines the
bad at times esp
& Autumn & a
injurious to hea
point is the
of the light &
from which disease
or blindness or
or strength

Haw

is always criminal; except in ²⁸
the one case only, of very rare
occurrence, in which medical skill
^{and judgment,}
carefully used, have made it clear
that it is necessary, to save
the endangered life of the mother.
Very much has been said, some-
times eloquently, ^{upon} the great
wrong there is in this crime, - so
often underestimated by unprofessi-
-onal persons; & so largely in-
-creasing in this country, according
to many observers. It is not
needful for me ^{now} to urge this;
because I am ~~very~~ sure it must
have been fully impressed upon you by
others ~~competent~~ competent to do it. But



(29)
I cannot feel satisfied to
pass from it, without, in one
word, adding my voice, as a
medical man, to swell the
condemnation of feticide, early
as well as late; as not only al-
ways dangerous ^{the maternal} to life, but
abhorrent to morality; an act which
no physician can ever sanction,
much less perpetrate or assist,
on any excuse or under any cir-
cumstances, without outraging pub-
lic law, violating the conscience of
the profession, and forfeiting all
right to recognition among honorable
men and women.

Working in deep med
impurity of blood
system, the sur
line agency (cha
vitality to man

It is proper to add, in regard to the legal relations of fornication, that, by common law, it is a high misdemeanor, punishable by imprisonment and fine; while several of our States have special statutes providing penalties for it.

Universally, such an offense is indictable at common law, when quickening is proved.

~~Some states~~ The courts of some states have held this to

~~be necessary to prove pregnancy at the time of the act, and that it is not necessary to prove that the child was born alive.~~

be requisite. But the Supreme Court of Pennsylvania has decided otherwise. It may be

Questions on Earth and

I.

Compare the general vegetation in the Eastern and

II.

What is the highest mountain and how high is it, and the greatest depth of the ocean?

III.

Compare the Continents together as to their climate and animal life of each.

IV.

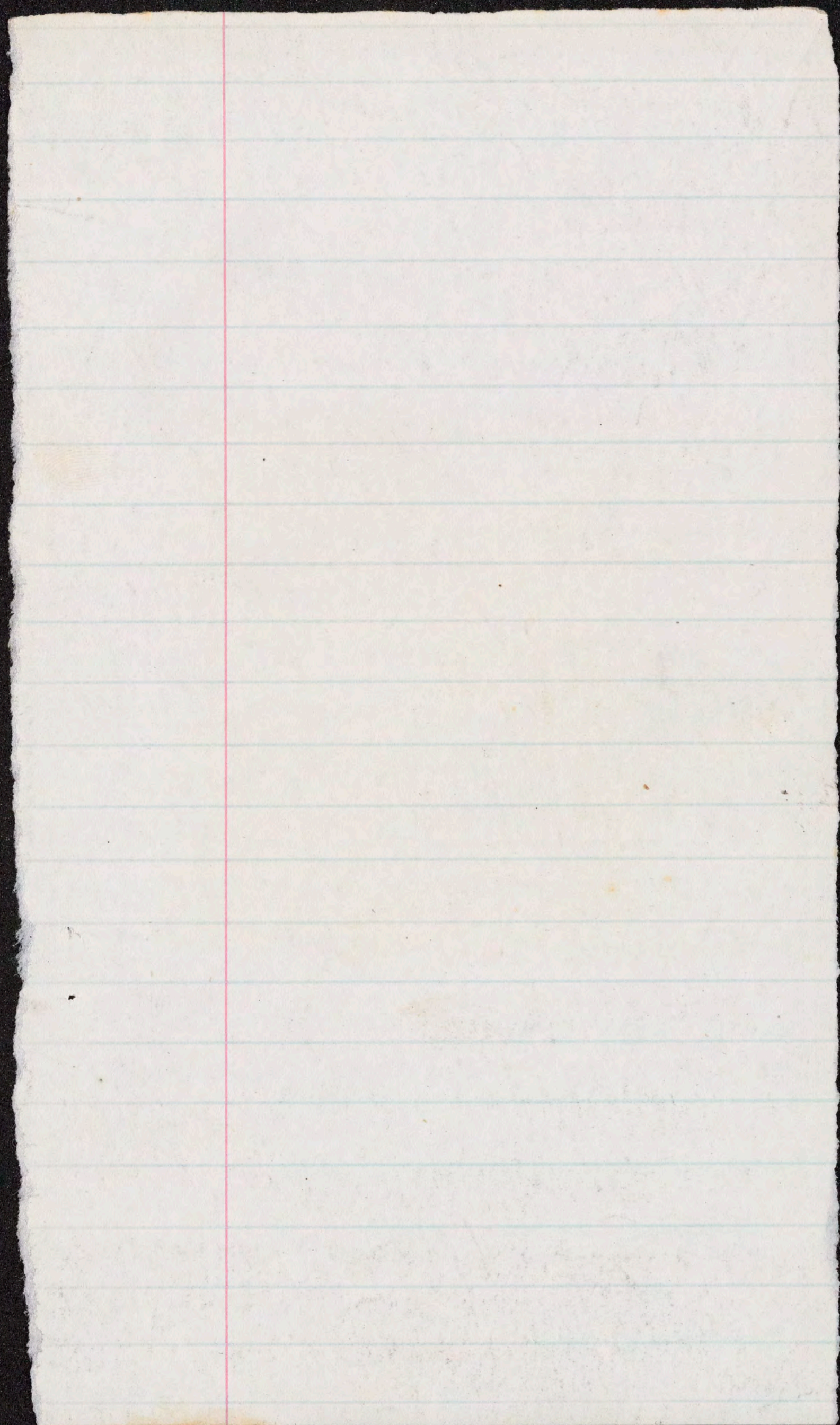
What is the influence of mountains and of deserts upon the distribution of rain.

V.

State the average annual rainfall in the Tropics of the Equator and in the Temperate

Concluded that, with (31)
growing force of authority,
the protection of the law is,
to use the words of Wharton
& Stille in their ^{excellent} treatise, —
"cast round an unborn
child from its first stage
of ascertainable existence, no
matter whether quickening has
taken place or not." —

In several states there
are, also, most properly, sta-
tutes against all modes of
inciting to or promoting facilities
for parricide, by advertisement or
otherwise. In Massachusetts,



I also invite your attention to the violations of law respecting advertisements of medicines for the cure of secret diseases, or for the cure of diseases peculiarly appertaining to females.

By the act of 16th of March, 1870, it shall not be lawful to print or publish advertisements of medicines, drugs, nostrums, or apparatus for the cure of secret or venereal diseases, or for the cure of those diseases peculiarly appertaining to females; * * * and every such person so offending shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined in any sum not exceeding one thousand dollars, or undergo an imprisonment not exceeding six months, or both or either, at the discretion of the Court. A second section of the Act prohibits the advertisement and sale of any secret nostrum or drug, purporting to be for the use of females, for the purpose of preventing conception, or of procuring abortion or mis-carriage, under the penalty of being deemed guilty of a misdemeanor, and upon conviction thereof, to be fined in any sum not exceeding one thousand dollars, or be imprisoned in the county jail not exceeding six months, or both, at the discretion of the court.

Penna.
1871-2

business. He can endure fire and flood, tolerate official corruption and imbecility, walk unconcernedly amid crime and pestilence, and permit the newspapers of other cities to circulate all manner of falsehoods and truths concerning the city of shanties and lumber yards—but if he is only prospering financially, according to the modern standard of prosperity, the representative Chicagoan is as happy as “a clam at high tide.” He came here, in the first place, to make money; he stays here for that purpose, and he will succeed, somehow, or perish in the attempt.

BRIDGES AND THEATRES.

The destruction of so many bridges which spanned the various branches of the Chicago river has proved one of the most annoying results of the fire, and one which affects all classes of people, though none so much as business and laboring men. After a long delay (utterly inexcusable under the circumstances) the Board of Public Works have let contracts for rebuilding several of the more prominent bridges, and work is progressing on these very rapidly, Sundays as well as week

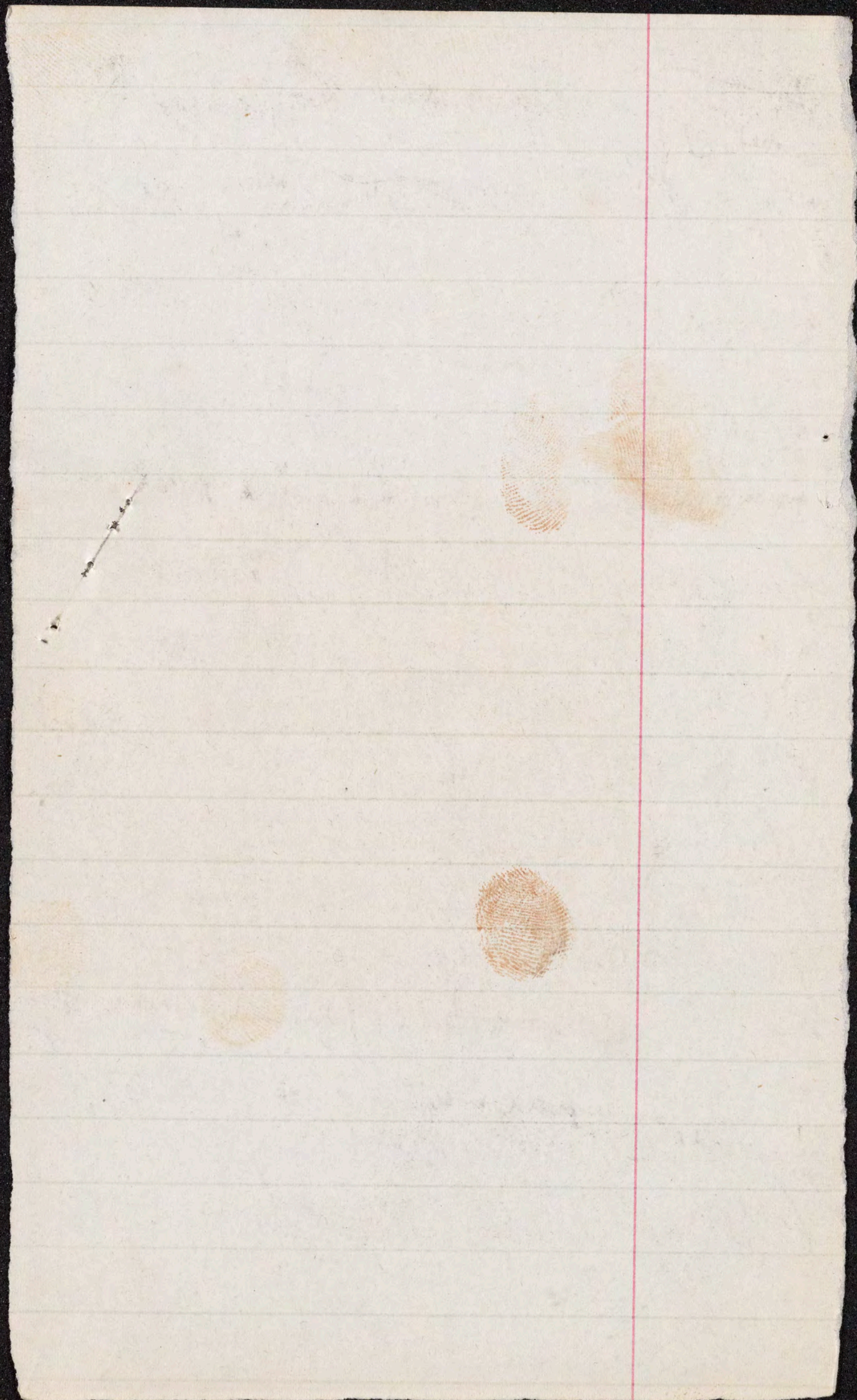
82

where some would have us
in married life, even in the better circles of society,
believe ~~the~~ ^{the} crime, ^{to be} rather especially

frequent, the penalty for any
such printed or published ad-
vertisement is imprisonment for
not more than 3 years, or
fine not exceeding \$1000.

In the same state, the actual
producing or endeavoring to produce
abortion is punishable by
imprisonment for not less than
7 years, and a fine not ex-
ceeding \$2000. (Similar penalties, to
less extent or amount
of severity, are imposed in this and other States.)

The sacredness of the
life of every human being, as
well as the high responsibilities,



those privileges and happiness 83
of honorable maternity, are
subjects upon which our
People appear to be yet
in need of fuller enlightenment.
To you, ^{most of all} ~~especially~~, the ~~Woman~~
in the profession, will belong
the duty of aiding in this,
and thus promoting, in no
unimportant degree, the cause
of private morals, and that
of ~~national~~ social health
and national prosperity.

having an immoderate
knowledge of right

8.
The example The
an example to illustrate
history in the South
Hindoo nation South
the Chinese.

9.
The general line
been toward the West
through Europe, and
the United States.

10.
The part, ^{Provisionally} assigned
history, is that it
man while grow and
America, where he